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12                   UNITED STATES DISTRICT COURT  
13                   WESTERN DISTRICT OF WASHINGTON AT SEATTLE  
14

15                   D.F.,

16                   Plaintiff,

17                   v.

18                   COPORATION OF THE PRESIDENT OF  
19                   THE CHURCH OF JESUS CHRIST OF  
20                   LATTER-DAY SAINTS, a Utah corporation  
21                   sole,

22                   Defendant.

23                   NO. C07-0801 JLR

24                   CR 101 VERIFICATION OF STATE  
25                   COURT RECORDS

26  
27  
28                   Pursuant to CR 101(b), the undersigned counsel hereby verifies that the attached  
29 documents are true and complete copies of all records and proceedings in the state court action  
30 brought in the Superior Court of Washington for King County, Cause No. 06-2-18131-0 KNT.  
31  
32                   These documents consist of the following:

33 34 35 36 37 <b>Doc. No.</b>	38 <b>Date Filed</b>	39 <b>Description of Document</b>
40                   1	06/01/2006	Summons & Complaint
41                   2	06/01/2006	Order Setting Civil Case Schedule
42                   3	06/01/2006	Case Information Cover Sheet
43                   4	07/06/2006	Confirmation of Service

44  
45                   CR 101 VERIFICATION OF STATE COURT  
RECORDS - 1

Page 1

GORDON TILDEN THOMAS & CORDELL LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154-1007  
Phone (206) 467-6477  
Fax (206) 467-6292

Dockets.Justia.com

Doc. No.	Date Filed	Description of Document
5	07/14/2006	Acceptance of Service
6	08/09/2006	Certificate of Service
7	08/09/2006	Jury Demand
8	08/18/2006	Declaration of Service of Summons & Complaint
9	11/17/2006	Order on Transfer of Individual Judge Assignment
10	11/20/2006	Declaration of Service of Summons & Complaint
11	11/30/2006	Certificate of Service
12	11/30/2006	Answer and Affirmative Defenses of Corporation of the President of the Church of Jesus Christ of Latter-Day Saints and LDS Family Services
13	12/12/2006	Court's Order to Show Cause
14	12/29/2006	Confirmation of Joinder of Parties, Claims and Defenses
15	01/11/2007	Defendant COP's Motion to Dismiss and/or for Summary Judgment
16	01/11/2007	Notice for Hearing
17	01/11/2007	Declaration of Paul D. Rytting
18	01/11/2007	Declaration of Michael Rosenberger
19	01/11/2007	Certificate of Service
20	01/29/2007	Declaration of Michelle A. Menely
21	01/29/2007	Plaintiff's Memorandum in Opposition to COP's Motion to Dismiss and/or For Summary Judgment
22	02/06/2007	Second Declaration of Paul D. Rytting
23	02/06/2007	Reply Brief in Support of Motion to Dismiss and/or Motion for Summary Judgment
24	02/06/2007	Certificate of Service
25	02/07/2007	Certificate of Service
26	02/07/2007	Praecipe to Defendant's Reply Brief
27	02/09/2007	Minute Entry – Summary Judgment Hearing
28	02/09/2007	Order Denying Defendant COP's Motion to Dismiss and/or For Summary Judgment
29	02/15/2007	Certificate of Service
30	02/15/2007	Notice for Hearing on Motion for Reconsideration

CR 101 VERIFICATION OF STATE COURT  
RECORDS - 2

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Doc. No.	Date Filed	Description of Document
31	02/15/2007	Defendant COP's Motion for Reconsideration
32	02/20/2007	Declaration of Service of Subpoena Duces Tecum
33	03/27/2007	Order Granting COP's Motion for Reconsideration and Setting Briefing Schedule
34	04/09/2007	Plaintiff's Memorandum in Opposition to Defendant COP's Motion for Reconsideration
35	04/10/2007	Court Minutes – Status Conference Continued
36	04/10/2007	Order on Show Cause Hearing
37	04/13/2007	Defendant COP's Reply in Support of Motion for Reconsideration
38	05/08/2007	Notice of Withdrawal and Substitution of Counsel
39	05/22/2007	Order Granting COP's Motion for Reconsideration and Dismissing the Mormon Church
40	05/22/2007	Court Minutes – Status Conference Hearing
41	05/22/2007	Order on Show Cause Hearing

DATED this 15 day of June, 2007.

GORDON TILDEN THOMAS & CORDELL LLP

By   
 Charles C. Gordon, WSBA #1073  
 Jeffrey I. Tilden, WSBA #12219  
 Michael Rosenberger, WSBA #31550  
 Attorneys for Defendants Corporation of the President  
 of the Church of Jesus Christ of Latter-Day Saints

1  
2                   **CERTIFICATE OF SERVICE**  
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4

5                   I hereby certify that on June 1, 2007 I electronically filed the foregoing with the  
6  
7 Clerk of the Court using the CM/ECF system, which will send notification of such filing to the  
8 following:  
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10

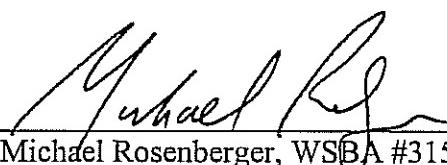
11                   Timothy D. Kosnoff  
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20                   mpfau@gth-law.com  
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22

23                   DATED this 1st day of June, 2007.  
24  
25

26                   GORDON TILDEN THOMAS & CORDELL LLP  
27  
28

29                   By   
30

31                   Michael Rosenberger, WSBA #31550  
32  
33

34                   Attorneys for Defendants Corporation of the  
35                   President of the Church of Jesus Christ of Latter-Day  
36                   Saints  
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SUPERIOR COURT CLERK  
SEATTLE, WA.

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants

06-2-18131-OKNT

NO.

SUMMONS

PARIS K. KALLAS

A lawsuit has been started against you in the above-entitled court by the above-named Plaintiff. Plaintiff's claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the Plaintiff

SUMMONS - 1 of 3  
[164607 v2.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
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ONE UNION SOLARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
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1 within 20 days after service of this summons if within the State of Washington, or within 60  
 2 days after service of this summons if outside of the State of Washington, excluding the day of  
 3 service, or a default judgment may be entered against you without notice. A default judgment  
 4 is one where Plaintiffs are entitled to what they ask for because you have not responded. If  
 5 you serve a notice of appearance on the undersigned attorney, you are entitled to notice before  
 6 a default judgment may be entered.  
 7

8 You may demand that the Plaintiff file this lawsuit with the court. If you do so, the  
 9 demand must be in writing and must be served upon the Plaintiff. Within fourteen (14) days  
 10 after you serve the demand, the Plaintiff must file this lawsuit with the court, or the service on  
 11 you of this summons and complaint will be void.

12 If you wish to seek the advice of an attorney in this matter, you should do so promptly  
 13 so that your written response, if any, may be served on time.  
 14

15 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the  
 16 State of Washington.

17 DATED this 1<sup>st</sup> day of June, 2006.

18 GORDON, THOMAS, HONEYWELL,  
 19 MALANCA, PETERSON & DAHEIM LLP

20 By: Michelle A. Menely  
 21 Michael T. Pfau, WSBA No. 24649  
mpfau@gth-law.com  
 22 Michelle A. Menely, WSBA No. 28353  
mmenely@gth-law.com  
 23 Co-Counsel for Plaintiff

24  
 25  
 26  
 SUMMONS - 2 of 3  
 [164607 v02.doc]

LAW OFFICES OF TIMOTHY D. KOSNOFF

By:

Timothy D. Kosnoff, WSBA No. 16586

[timkosnoff@comcast.net](mailto:timkosnoff@comcast.net).

Co-Counsel for Plaintiff

SUMMONS - 3 of 3  
[164607 v02.doc]

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KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants

96-2-18131-0KRT

COMPLAINT

RANDI K. KILLAS

COMES NOW plaintiff D.F., by and through his attorneys Michael T. Pfau, Gordon Thomas Honeywell Malanca Peterson & Daheim, LLP and Timothy Kosnoff, Law Offices of Timothy Kosnoff, PC, and hereby states and alleges as follows.

I. PARTIES AND GENERAL ALLEGATIONS

1.1 Plaintiff D.F., is an adult and at all times relevant hereto was a boy residing with his parent in Kent, Washington. D.F. and his family were recruited into the Mormon

COMPLAINT - 1 of 13

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[163983 v5.doc]

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ORIGINAL

1 Church. At all relevant times, plaintiff was a member of the Church of Jesus Christ of Latter-  
 2 day Saints and attended the Kent 2<sup>nd</sup> Ward. At time relevant to this case plaintiff D.F. was  
 3 approximately 12 year old.

4       1.2 Defendant THE CORPORATION OF THE PRESIDENT OF THE CHURCH  
 5 OF JESUS CHRIST LATTER-DAY SAINTS, a Utah corporation sole, is a corporation duly  
 6 organized and operating pursuant to the laws of Utah. This defendant also operates as the  
 7 "MORMON CHURCH" THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS,  
 8 which is an unincorporated association. This defendant will hereinafter be referred to as  
 9 COP. COP operates churches within the State of Washington.

10      1.3 Defendant the "MORMON CHURCH" THE CHURCH OF JESUS CHRIST  
 11 OF LATTER-DAY SAINTS, is an unincorporated association. This defendant will  
 12 hereinafter be referred to as the "Mormon Church." The Mormon Church operates churches  
 13 within the State of Washington.

14      1.4 LDS SOCIAL SERVICES a/k/a LDS FAMILY SERVICES (hereinafter  
 15 "LDSSS") was at all relevant times the official social service arm of the Mormon Church. Its  
 16 purpose was to provide ward bishops and priesthood leaders access to state-licensed social  
 17 services delivered "by staff members and volunteers whose values, knowledge, and  
 18 professional skills are in harmony with the gospel and the order of the Church." LDSSS was  
 19 at all relevant times a Utah Corporation headquartered in Salt Lake City, Utah. On  
 20 information and belief it has branch offices throughout the United States and worldwide. At  
 21 all relevant times, LDSSS was an agent of COP.

22      1.5 COP, THE MORMON CHURCH, and LDSSS were, at all relevant times,  
 23 mandatory child abuse reporters subject to RCW § 26.44.030

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 COMPLAINT - 2 of 13

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## II. JURISDICTION AND VENUE

2.1 Jurisdiction and venue are proper in this Court because the acts giving rise to this claim occurred in Kent, King County, Washington.

### **III. FACTS RELATING TO THE STRUCTURE OF THE MORMON CHURCH**

3.1 COP is a corporation governed by a single individual, the President of the Mormon Church. The President wields ultimate and absolute authority within the Mormon Church. The President of the Mormon Church, Gordon B. Hinckley, is the "Divine Prophet, Seer and Revelator" of the Church and has the authority to appoint and remove anyone in the Mormon Church, including all members of wards and stakes, at will. The President of the Mormon Church controls everything in the Mormon Church and all of its wards and stakes. As such, the President of the Church has authority to dictate changes in Church policy, discipline, ecclesiastical doctrine or anything else he so chooses. The acts of the President, in his capacity as head of the Mormon Church, are the acts of COP. COP is registered to do business within, and conducts continuous and systematic activities within, the State of Washington.

3.2 COP administers the Mormon Church through a multi-level structure. Structurally, the Mormon Church follows a strict hierarchical form. At the local level are wards, consisting of a geographic area administered by a bishop and two counselors which comprise the governing “bishopric.” A cluster of 8-12 wards are grouped into a stake, which is administered by a stake president. Stakes are, in turn, grouped into areas, which are administered by an area president. All bishops, stake presidents, and area presidents are answerable, directly or indirectly, to COP and are its agents and servants. The wards, stakes and areas of the Mormon Church are instruments of COP and are not separate corporate entities.

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1           3.3     All members of the Mormon Church are required to tithe 10% of their annual  
 2     gross income to the Church as a condition of membership. The Church's income from tithing  
 3     is approximately 5.5 to 7.5 billion dollars annually.

4           3.4     During all times material to this action, the plaintiff and his family regularly  
 5     attended and tithed to the Mormon Church.

6           3.5     Adherents of the Mormon faith who have been baptized into the Church are  
 7     known as members. COP has the power to limit or restrict the capacity in which any member  
 8     serves the Church, and may place such conditions on a member as may be in the interests of  
 9     the Church and of its members and prospective converts.

10          3.6     Adult male members of the Church are eligible to be ordained as a Priest.  
 11     There are various levels of priesthood, including elevation to the rank of "Elder,"  
 12     "Melchizedek" Priest and High Priest. Elders and Melchizedek and High Priests are held out  
 13     by the Mormon Church as men that are morally worthy and deserving of the trust of its  
 14     members.

15          3.7     At all relevant times, the Mormon Church assumed special responsibilities  
 16     toward its members including a disciplinary and red-flagging system meant to identify and  
 17     track sexual predators and other dangerous individuals within the membership in order to  
 18     protect innocent members from harm they might inflict.

19          3.8     The Mormon Church is closely affiliated with the Boy Scouts of America. The  
 20     Mormon Church is the oldest and one of the largest sponsoring organizations of boy scouting  
 21     in the United States. Since 1913 the Mormon Church has used the Scouting program as an  
 22     integral part of its ministry to boys and young men. Scouting is the exclusive youth activity  
 23     for males in the Mormon Church.

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 COMPLAINT - 4 of 13

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#### IV. SUBSTANTIVE FACTS

4.1 DR. HERMAN M. ALLENBACH was at relevant times a High Priest, Bishopric Counselor and Scout leader in the Kent 2<sup>nd</sup> Ward of the Church of Jesus Christ of Latter-day Saints and he was their agent. ALLENBACH was an oral surgeon with a practice in Kent. In addition to owning and operating a professional oral surgery practice in Kent, Allenbach owned and managed commercial and residential rental properties in the Kent area.

4.2 ALLENBACH died March 6, 2000.

4.3 At relevant times RANDY BORLAND, PHILLIP COLEMAN and RICHARD PETITT were ward bishops of the Kent 2<sup>nd</sup> Ward.

4.4 JACK ALLEN LOHOLT, a/k/a JACK ALLEN ONOFREY ("Loholt"), is a twice-convicted, compulsive sexual predator of children. At all relevant times LOHOLT was a member of the Mormon Church and held the status of Melchizedek Priest, and Elder. At all relevant times, LOHOLT was the assistant scout leader in the Kent 2<sup>nd</sup> Ward of the Mormon Church. As such, he was subject to the control and discipline of the Church, and he was, at all relevant times, an agent of COP and the MORMON CHURCH.

4.5 In approximately 1969, LOHOLT resided in a rental home owned by Dr. Allenbach. The home was located on the same property as the Allenbach family home in Kent.

4.6 At all relevant times, LOHOLT worked as contractor and handyman for Allenbach. Both were Mormon priests and both were active in the Kent 2<sup>nd</sup> ward scouting program.

4.7 In approximately 1970-1971, LOHOLT masturbated and ejaculated in front of the neighbors' seven year old son. The neighbors complained to Dr. Allenbach. Allenbach told them that he would "take care of it."

COMPLAINT - 5 of 13

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1           4.8     Despite this complaint, neither ALLENBACH nor any other church officials  
 2 reported LOHOLT to civil authorities, warned church members about LOHOLT or took any  
 3 action to protect children. Instead, Mormon Church officials did nothing about LOHOLT and  
 4 continued him as assistant scoutmaster.

5           4.9     In approximately 1971-73, members of the Kent 2d Ward complained to  
 6 Bishop Randy Borland that LOHOLT was sexually abusing their thirteen-year-old sons.  
 7 Borland confronted LOHOLT about the allegations. LOHOLT denied abusing those boys but  
 8 admitted that he was molesting other boys in the ward.

9           4.10    In response, Borland interviewed the boys and their parents and confirmed that  
 10 LOHOLT had been abusing them. Despite this certain knowledge that LOHOLT was an  
 11 abuser, COP failed to report LOHOLT to civil authorities, failed to warn parents and failed to  
 12 take any measures to protect children from LOHOLT. Further, COP failed to provide  
 13 guidance counseling and support to the victims. Instead, Bishop Borland temporarily  
 14 removed LOHOLT from his position as assistant scout master and sent LOHOLT to LDSSS  
 15 for counseling. LOHOLT underwent a brief period of counseling with LDSSS during which  
 16 he fully informed his counselors that he had constant, uncontrollable urges to have sex with  
 17 children. Instead of providing him proper treatment, LDSSS counseled LOHOLT to read  
 18 scripture, to repent of his sins and to pray more.

19           4.11    LDSSS and COP and the MORMON CHURCH, despite being mandatory  
 20 child abuse reporters in Washington, and despite having certain knowledge that LOHOLT  
 21 presented a severe and immediate threat to children, failed to report him to civil authorities,  
 22 failed to warn parents and failed to take any reasonable steps to warn or protect children it  
 23 knew or should have known were at risk of abuse by LOHOLT. Instead, COP and the  
 24 MORMON CHURCH put LOHOLT back in to his role as assistant scoutmaster and allowed  
 25 him to resume working with boys in the ward's scouting program.

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 COMPLAINT - 6 of 13

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[163983 v5.doc]

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1           4.12 For the next seven years, LOHOLT sodomized young boys in the ward's  
 2 scouting program including the plaintiff in this case when he was approximately 12 years old.

3           4.13 In approximately 1979 or 1980, LOHOLT sexually abused two twelve year old  
 4 scouts on a campout and it was reported to Bishop Petit.

5           4.14 Petit removed LOHOLT from the ward's scouting program but never reported  
 6 the incidents to the police or to civil authorities and failed to investigate the full extent of  
 7 LOHOLT's predations of boys in the ward. Further, COP failed to provide adequate  
 8 guidance, counseling and support to the victims.

9           4.15 In 1980, LOHOLT moved to Kenora, Ontario, Canada to get a "fresh start." In  
 10 Kenora, LOHOLT joined a Mormon ward and immediately got involved in the scouting  
 11 program. COP failed to warn church and scout officials in Kenora about LOHOLT's history  
 12 of sexually abusing children in the United States.

13           4.16 In Canada, LOHOLT sexually abused five boy scouts. He was arrested,  
 14 prosecuted and convicted of child sexual abuse in Winnipeg. COP knew that LOHOLT had  
 15 been convicted of abusing boys in Canada but did nothing to warn or protect children when he  
 16 returned to the United States after his release from prison.

17           4.17 After serving a prison sentence in Canada, LOHOLT moved back to Kent and  
 18 back in to one of Allenbach's rental properties. Mormon Church officials never warned  
 19 parents or civil authorities that LOHOLT, a serial sexual predator of children and had returned  
 20 to the community.

21           4.18 Upon his return to Kent, LOHOLT immediately began sexually abusing  
 22 another neighbor child, an eight year old girl with whom he had sexual contact 50-100 times  
 23 between 1985 and 1988. LOHOLT was prosecuted and convicted of indecent liberties with a  
 24 child in 1991. At sentencing, a Mormon church official asked the court for leniency for  
 25 LOHOLT. One church official represented to the sentencing court that LOHOLT had served  
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COMPLAINT - 7 of 13

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1 as a ward scout leader from 1972 to 1979 and that he was "very diligent and gave outstanding  
 2 service." LOHOLT was sentenced to prison. Upon release from prison, LOHOLT returned to  
 3 Canada.

4 4.19 LOHOLT now lives in Lake La Hache, B.C. and goes by the name Jack  
 5 Onofrey. He is married and attends the local branch of the Mormon Church. COP has not  
 6 warned members of the branch that LOHOLT is a child sexual predator.

7 **V. -- FIRST CAUSE OF ACTION**  
 8 (Negligence and Breach of Fiduciary Duty)

9 5.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under  
 10 this count and further alleges:

11 5.2 Defendants COP and THE MORMON CHURCH, and each of them, had a  
 12 special relationship with plaintiff and with LOHOLT. Knowing that LOHOLT was a  
 13 pedophile who was actively abusing children, COP had a duty to warn or protect foreseeable  
 14 victims including plaintiff.

15 5.3 Defendant LDSSS had a "special relationship with plaintiff and LOHOLT.  
 16 Knowing that LOHOLT was a dangerous pedophile, LDSSS had a duty to warn or protect  
 17 foreseeable victims including plaintiff.

18 5.4 Furthermore, at all relevant times, the Mormon Church's bishops, stake  
 19 presidents, Boy Scout leaders and LDS Social Services therapists were all mandatory child  
 20 abuse reporters pursuant to R.C.W. 24.44.

21 5.5 The Mormon Church's bishops, stake presidents, Boy Scout leaders and  
 22 therapists within the State of Washington breached both a statutorily proscribed duty and a  
 23 duty of reasonable care by failing to report their knowledge of LOHOLT'S sexual abuse of  
 24 children to civil authorities.

25 5.6 But for the breach of duty, acts, omissions and deceit of COP, THE  
 26 MORMON CHURCH and LDSSS, and the church bishops, boy scout leaders, stake

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1 presidents and area presidents, LOHOLT would not have been able to abuse plaintiff because  
 2 LOHOLT would have been arrested, prosecuted and convicted or would have been in prison  
 3 or under an order of supervision or would otherwise have been publicly identified as a child  
 4 molester.

5       5.7     Moreover, COP adopted guidelines for handling victims of child sexual abuse  
 6 and sex offenders. Plaintiff is within the class of people whom the guidelines were designed  
 7 to protect. The harm Plaintiff suffered as a result of COP's negligence was the harm  
 8 contemplated in COP's Handbook of Instruction to clergy.

9       5.8     Notwithstanding COP's duty, it failed to train and supervise its hierachal  
 10 clergy in the proper implementation of its guidelines, policies and procedures regarding the  
 11 treatment of victims of child sexual abuse, to monitor and insure compliance with their  
 12 guidelines, policies and procedures, treatment of child sexual abusers and reporting of child  
 13 sexual abuse.

14       5.9     COP failed to properly investigate allegations of abuse and failed to reach out  
 15 and provide services to victims.

16       5.10    Defendants COP, the MORMON CHURCH and LDSSS knew, or in the  
 17 exercise of reasonable care should have known, that their failure to report LOHOLT'S sexual  
 18 abuse to appropriate law enforcement or social services agencies or to notify Plaintiff's family  
 19 or other families would result in LOHOLT sexually abusing members children of the ward,  
 20 including plaintiff.

21       5.11    As a result of the molestation and breach of trust, plaintiff has suffered and will  
 22 continue to suffer physical and emotional pain and dysfunction to his general, non-economic  
 23 damage in an amount to be determined. As a further result of the sexual abuse, plaintiff has  
 24 incurred and/or will continue to incur costs for counseling and psychological treatment, and  
 25 has lost earning capacity to his damage in an amount to be proved at trial.  
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COMPLAINT - 9 of 13

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1           5.12 Defendants' (and each of them) conduct was the result of a willful, reckless and  
 2           outrageous indifference to a highly unreasonable risk of harm and a conscious indifference to  
 3           the health, safety and welfare of plaintiff. The defendants' conduct is socially intolerable and  
 4           plaintiff gives notice of intent to seek exemplary damages.

5           **VI. – SECOND CAUSE OF ACTION**

6           (Intentional Infliction of Emotional Distress)

7           6.1 Plaintiff re-alleges and incorporates the paragraph set forth above.

8           6.2 Defendants' knew that it was substantially certain that Loholt would continue  
 9           to abuse children of their congregation and intentionally and/or reckless failed to report  
 10          Loholt's conduct to the proper authorities, failed to warn the parishioners of Loholt's abusive  
 11          tendencies and failed to remove him from his position in the scouting program.

12          6.3 Defendants' knew that it was substantially certain that victims of Loholt,  
 13          including plaintiff herein, would suffer severe emotional distress if they failed to take action  
 14          to prevent Loholt from molesting children of the congregation.

15          6.4 By intentionally or recklessly failing to notify law enforcement officials, by  
 16          failing to warn parishioners of Loholt's abusive tendencies and by intentionally or recklessly  
 17          failing to remove Loholt from his position in the scouting program, defendants, and each of  
 18          them, engaged in conduct that was an outrageous violation of societal norms and went so far  
 19          beyond all possible bounds of decency, so as to be regarded as atrocious, and utterly  
 20          intolerable in a civilized community.

21          6.5 In addition, defendants intentionally and reckless caused severe emotional  
 22          distress to plaintiff when, after plaintiff notified defendants of Loholt's abusive tendencies, the  
 23          defendants told plaintiff to keep the information secret and to not let the information "leave  
 24          the [Bishop's] office."

25          6.6 As a direct and proximate result of defendants' failure to take any action, and  
 26          defendants' act of silencing plaintiff, plaintiff suffered, and will continue to suffer, with

COMPLAINT - 10 of 13

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1 extreme emotional distress and has incurred, and will continue to incur costs for counseling  
 2 and psychological treatment.

3 **VII. - THIRD CAUSE OF ACTION**

4 (Estoppel and Fraudulent Concealment)

5 7.1 Plaintiff re-alleges the paragraphs set forth above.

6 7.2 Defendants, and each of them, engaged in a plan of action to cover up  
 7 incidents of the sexual abuse of minors by its Melchizedek priests and scout leaders and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to  
 8 report incidents of abuse to law enforcement or child protection agencies, denial of abuse it  
 9 had substantiated, the transfer of abusive Melchizedek priests and scoutmasters, coercion of  
 10 victims and their families and by failure to seek out and redress the injuries these men had  
 11 caused. Based on these actions, the defendants engaged in fraudulent concealment and are  
 12 estopped from asserting defense of limitations.

13 **VIII. - THIRD CAUSE OF ACTION**

14 (Civil Conspiracy)

15 8.1 Plaintiff re-alleges the paragraphs set for above.

16 8.2 Defendants, by and through their agents and representatives, conspired to  
 17 cover up incidents of sexual abuse of minors by Melchizedek priests and scout leaders and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to  
 18 report incidents of abuse to law enforcement or child protection agencies, denial of abuse it  
 19 had substantiated, aiding criminal child molesters in evading detection, arrest and prosecution,  
 20 allowing them to cross state and international borders for purposes of gaining access to  
 21 uninformed parents whose innocent children could sexually abused, failure to warn, and by  
 22 failure to seek out and redress the injuries its priests and scoutmasters had caused. Based on  
 23 these actions, the defendants conspired for the unlawful purpose of concealing and  
 24

25  
 26 COMPLAINT - 11 of 13

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1 suppressing information on the danger and threat that its priests posed to unsuspecting  
 2 children, including the plaintiff.

3 **IX. - DAMAGES**

4       9.1     As a direct and proximate result, the wrongful acts of defendants, plaintiff has  
 5 suffered serious and continuing physical and emotional harm.

6       9.2     As a proximate cause of the aforementioned acts, plaintiff has sustained past  
 7 general and special damages, including but not limited to, the following damages in an  
 8 amount to be proven at trial.

9              9.2.1   Past, present and future physical and emotional pain and suffering.

10             9.2.2   Past, present and future permanent and continuing physical and  
 11                 psychological injury.

12             9.2.3.   Past, present and future impaired earning capacity, and

13             9.2.4   Medical bills and other related expenses for past and future treatment.

15 **PRAYER FOR RELIEF**

16       WHEREFORE, Plaintiff prays that the Court enter a judgment against the Defendants,  
 17 and each of them, jointly and severally, and in plaintiff's favor, for the following:

18       1.       For special damages for medical treatment expenses, lost earnings, and lost  
 19       earnings capacity, and the expenses of medication and other special expenses, both in the past  
 20       and continuing into the future, in amounts to be determined at the time of trial;

21       2.       For all general damages, for mental, physical and emotional upset and  
 22       disturbance, and other disorders resulting from the acts complained of herein;

23       3.       For such attorneys' fees, prejudgment interest, costs and exemplary damages  
 24       allowed by RCW 9.68A.130 and other law; and

26  
COMPLAINT - 12 of 13

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4. For such other and further relief as this Honorable Court determines just in the premises.

Dated this 1<sup>s</sup> day of June, 2006.

**GORDON, THOMAS, HONEYWELL,  
MALANCA, PETERSON & DAHEIM, LLP**

By *Michelle Menely*  
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Co-Counsel for Plaintiff

LAW OFFICES OF TIMOTHY D. KOSNOFF

By Timothy D. Kosnoff, WSBA No. 16586\\  
timkosnoff@comcast.net  
Co-Counsel for Plaintiff

COMPLAINT - 13 of 13

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**FILED**  
 06 JUN -1 PM 4:13  
 KING COUNTY  
 SUPERIOR COURT CLERK  
 SEATTLE, WA.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING**

D.F.,

vs

THE CORPORATION OF THE PRESIDENT OF  
THE CHURCH OF JESUS CHRIST,

Plaintiff(s)

Defendant(s)

NO. 06-2-18131-0 KNT

Order Setting Civil Case Schedule (\*ORSCS)

ASSIGNED JUDGE Kallas 35

FILE DATE: 06/01/2006

TRIAL DATE: 11/19/2007

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

**I. NOTICES**

**NOTICE TO PLAINTIFF:** The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

*"I understand that I am required to give a copy of these documents to all parties in this case."*

  
 Print Name
\_\_\_\_\_  
Sign Name

## I. NOTICES (continued)

### **NOTICE TO ALL PARTIES:**

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLR 26], and for meeting the discovery cutoff date [See KCLR 37(g)].

### **CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:**

A filing fee of \$200 must be paid when any answer that includes additional claims is filed in an existing case.

### **SHOW CAUSE HEARINGS FOR CIVIL CASES** [King County Local Rule 4(g)]

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. A review of the case will be undertaken to confirm service of the original complaint and to verify that all answers to claims, counterclaims and cross-claims have been filed. If those mandatory pleadings are not in the file, a *Show Cause Hearing* will be set before the Chief Civil or RJC judge. The Order to Show Cause will be mailed to all parties and designated parties or counsel are required to attend.

### **PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:**

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

**If you miss your scheduled Trial Date,** the Superior Court Clerk is authorized by KCLR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

### **NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:**

*All parties to this action must keep the court informed of their addresses.* When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

### **ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:**

A Statement of Arbitrability must be filed by the deadline on the schedule if the case is subject to mandatory arbitration and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. Any party filing a Statement must pay a \$220 arbitration fee. If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

### **NOTICE OF NON-COMPLIANCE FEES:**

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

King County Local Rules are available for viewing at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

## II. CASE SCHEDULE

CASE EVENT	DEADLINE or EVENT DATE	Filing Needed
Case Filed and Schedule Issued.	Thu 06/01/2006	*
Confirmation of Service [See KCLR 4.1].	Thu 06/29/2006	*
Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. <b>\$220 arbitration fee must be paid</b>	Thu 11/09/2006	*
<b>DEADLINE to file Confirmation of Joinder if not subject to Arbitration. [See KCLR 4.2(a) and Notices on Page 2]. Show Cause hearing will be set if Confirmation is not filed, or if the Confirmation does not have all signatures, or if all answers have not been filed, or judgment on default has not been filed, or Box 2 is checked.</b>	Thu 11/09/2006	*
DEADLINE for Hearing Motions to Change Case Assignment Area. [See KCLR 82(e)]	Mon 11/27/2006	
DEADLINE for Disclosure of Possible Primary Witnesses [See KCLR 26(b)].	Mon 06/18/2007	
DEADLINE for Disclosure of Possible Additional Witnesses [See KCLR 26(b)].	Mon 07/30/2007	
DEADLINE for Jury Demand [See KCLR 38(b)(2)].	Mon 08/13/2007	*
DEADLINE for Setting Motion for a Change in Trial Date [See KCLR 40(e)(2)].	Mon 08/13/2007	*
DEADLINE for Discovery Cutoff [See KCLR 37(g)].	Mon 10/01/2007	
DEADLINE for Engaging in Alternative Dispute Resolution [See KCLR 16(c)].	Mon 10/22/2007	
DEADLINE for Exchange Witness & Exhibit Lists & Documentary Exhibits [See KCLR 16(a)(4)].	Mon 10/29/2007	
DEADLINE to file Joint Confirmation of Trial Readiness [See KCLR 16(a)(2)]	Mon 10/29/2007	*
DEADLINE for Hearing Dispositive Pretrial Motions [See KCLR 56; CR 56].	Mon 11/05/2007	
Joint Statement of Evidence [See KCLR 16(a)(5)].	Tue 11/13/2007	*
Trial Date [See KCLR 40].	Mon 11/19/2007	

## III. ORDER

Pursuant to King County Local Rule 4 [KCLR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action must serve this Order Setting Civil Case Schedule and attachment on all other parties.

DATED: 06/01/2006



\_\_\_\_\_  
PRESIDING JUDGE

**IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE**

**READ THIS ORDER PRIOR TO CONTACTING YOUR ASSIGNED JUDGE**

**This case is assigned to the Superior Court Judge whose name appears in the caption of this Schedule. The assigned Superior Court Judge will preside over and manage this case for all pre-trial matters.**

**COMPLEX LITIGATION:** If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

**The following procedures hereafter apply to the processing of this case:**

**APPLICABLE RULES:**

a. Except as specifically modified below, all the provisions of King County Local Rules 4 through-26 shall apply to the processing of civil cases before Superior Court Judges.

**CASE SCHEDULE AND REQUIREMENTS:**

A. **Show Cause Hearing:** A Show Cause Hearing will be held before the Chief Civil/Chief RJC.judge if the case does not have confirmation of service on all parties, answers to all claims, crossclaims, or counterclaims as well as the confirmation of joinder or statement of arbitrability filed before the deadline in the attached case schedule. All parties will receive an *Order to Show Cause* that will set a specific date and time for the hearing. Parties and/or counsel who are required to attend will be named in the order.

B. **Pretrial Order:** An order directing completion of a Joint Confirmation of Trial Readiness Report will be mailed to all parties approximately six (6) weeks before trial. **This order will contain deadline dates for the pretrial events listed in King County Local Rule 16:**

- 1) Settlement/Mediation/ADR Requirement;
- 2) Exchange of Exhibit Lists;
- 3) Date for Exhibits to be available for review;
- 4) Deadline for disclosure of witnesses;
- 5) Deadline for filing Joint Statement of Evidence;
- 6) Trial submissions, such as briefs, Joint Statement of Evidence, jury instructions;
- 7) voir dire questions, etc;
- 8) Use of depositions at trial;
- 9) Deadlines for nondispositive motions;
- 10) Deadline to submit exhibits and procedures to be followed with respect to exhibits;
- 11) Witnesses – identity, number, testimony;

C. **Joint Confirmation regarding Trial Readiness Report:** No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment), etc. If parties wish to request a CR 16 conference, they must contact the assigned court.

Plaintiff/petitioner's counsel is responsible for contacting the other parties regarding said report.

D. **Settlement/Mediation/ADR:**

**1) Forty five (45) days before the Trial Date,** counsel for plaintiff shall submit a written settlement demand. Ten (10) days after receiving plaintiff's written demand, counsel for defendant shall respond (with a counteroffer, if appropriate).

**2) Twenty eight (28) days before the Trial Date,** a settlement/mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

E. **Trial:** Trial is scheduled for 9:00 a.m. on the date on the *Schedule or as soon thereafter as convened by the court*. The Friday before trial, the parties should access the King County Superior Court website at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc) to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

**MOTIONS PROCEDURES:****A. Noting of Motions**

**Dispositive Motions:** All Summary Judgment or other motions that dispose of the case in whole or in part will be heard with oral argument before the assigned judge. The moving party must arrange with the courts a date and time for the hearing, consistent with the court rules.

King County Local Rule 7 and King County Local Rule 56 govern procedures for all summary judgment or other motions that dispose of the case in whole or in part. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

**Nondispositive Motions:** These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the *Note for Motion* should state "Without Oral Argument." King County Local Rule 7 governs these motions, which include discovery motions. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

**Motions in Family Law Cases not involving children:** Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions Calendar. King County Local Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

**Emergency Motions:** Emergency motions will be allowed only upon entry of an *Order Shortening Time*. However, emergency discovery disputes may be addressed by telephone call, and without written motion, if the judge approves.

**Filing of Documents** All original documents must be filed with the Clerk's Office. *The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge.* The assigned judge's working copy must be delivered to his/her courtroom or to the judges' mailroom. Do not file working copies with the Motions Coordinator, except those motions to be heard on the Family Law Motions Calendar, in which case the working copies should be filed with the Family Law Motions Coordinator.

**Original Proposed Order:** Each of the parties must include in the working copy materials submitted on any motion an original proposed order sustaining his/her side of the argument. Should any party desire a copy of the order as signed and filed by the judge, a preaddressed, stamped envelope shall accompany the proposed order.

**Presentation of Orders:** All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. If final orders and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.

**C. Form:** Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.




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PRESIDING JUDGE

FILED

KING CO SUPERIOR CT  
 BARBARA MINER  
 DIRECTOR & SUP CRT CLERK  
 SEATTLE WA

06-2-18131-0

Rept. Date	Acct. Date	Time
06/01/2006	06/01/2006	04:21 PM

Receipt/Item #	Tran-Code	Docket-Code
2006-14-07126/01	1100	\$FFR
Cashier: RDB		

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION  
and  
CASE INFORMATION COVER SHEET  
(cics)**

Paid By:	GORDON, THOMAS	Transaction Amount:	\$200.00
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In accordance with LR82(e), a faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to King County Code 4.71.100.

*KMT*  
**CASE NUMBER: 06-2-18131-0838**

**CASE CAPTION: D.F. v. CHURCH OF JESUS CHRIST LATTER-DAY SAINTS ET AL.**

I certify that this case meets the case assignment criteria, described in King County LR 82(e), for the:

Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

\_\_\_\_\_  
Signature of Petitioner/Plaintiff

\_\_\_\_\_  
Date

or

*Michelle Miner*  
\_\_\_\_\_  
Signature of Attorney for  
Petitioner/Plaintiff

*6-1-06*  
\_\_\_\_\_  
Date

*28353*  
\_\_\_\_\_  
WSBA Number

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION  
and**

**CASE INFORMATION COVER SHEET**

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

**PROPERTY RIGHTS**

- Condemnation/Eminent Domain (CON 2)\*
- Foreclosure (FOR 2)\*
- Land Use Petition (LUP 2)\*
- Property Fairness (PFA 2)\*
- Quiet Title (QTI 2)\*
- Unlawful Detainer (UND 2)

**PROBATE/GUARDIANSHIP**

- Absentee (ABS 4)
- Disclaimer (DSC4)
- Estate (EST 4)
- Foreign Will (FNW 4)
- Guardian (GDN4)
- Limited Guardianship (LGD 4)
- Minor Settlement (MST 4)
- Notice to Creditors – Only (NNC 4)
- Trust (TRS 4)
- Trust Estate Dispute Resolution Act/POA (TDR 4)
- Will Only—Deceased (WLL4)

**JUDGMENT**

- Confession of Judgment (MSC 2)\*
- Judgment, Another County, Abstract (ABJ 2)
- Judgment, Another State or Country (FJU 2)
- Tax Warrant (TAX 2)
- Transcript of Judgment (TRJ 2)

**TORT, MEDICAL MALPRACTICE**

- Hospital (MED 2)\*
- Medical Doctor (MED 2)\*
- Other Health Care Professional (MED 2)\*

**OTHER COMPLAINT/PETITION**

- Action to Compel/Confirm Private Binding Arbitration (MSC 2)
- Certificate of Rehabilitation (MSC 2)
- Change of Name (CHN 2)
- Deposit of Surplus Funds (MSC 2)
- Emancipation of Minor (EOM 2)
- Frivolous Claim of Lien (MSC 2)
- Injunction (INJ 2)\*
- Interpleader (MSC 2)
- Malicious Harassment (MHA 2)\*
- Non-Judicial Filing (MSC 2)
- Other Complaint/Petition(MSC 2)\*
- Seizure of Property from the Commission of a Crime (SPC 2)\*
- Seizure of Property Resulting from a Crime (SPR 2)\*
- Structured Settlements (MSC 2)\*
- Subpoena (MSC 2)

**TORT, MOTOR VEHICLE**

- Death (TMV 2)\*
- Non-Death Injuries (TMV 2)\*
- Property Damage Only (TMV 2)\*

**TORT, NON-MOTOR VEHICLE**

- Asbestos (PIN 2)\*\*
- Implants (PIN 2)
- Other Malpractice (MAL 2)\*
- Personal Injury (PIN 2)\*
- Products Liability (TTO 2)\*
- Property Damage (PRP 2)\*
- Wrongful Death (WDE 2)\*
- Tort, Other (TTO 2)\*

**WRIT**

- Habeas Corpus (WHC 2)
- Mandamus (WRM 2)\*\*
- Review (WRV 2)\*\*

\* The filing party will be given an appropriate case schedule. \*\* Case schedule will be issued after hearing and findings.

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION  
and  
CASE INFORMATION COVER SHEET**

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

**APPEAL/REVIEW**

- Administrative Law Review (ALR 2)\*
- DOL Implied Consent—Test Refusal –only RCW 46.20.308 (DOL 2)\*
- DOL- all other appeals (ALR 2) \*

**CONTRACT/COMMERCIAL**

- Breach of Contract (COM 2)\*
- Commercial Contract (COM 2)\*
- Commercial Non-Contract (COL 2)\*
- Meretricious Relationship (MER 2)\*
- Third Party Collection (COL 2)\*

**DOMESTIC RELATIONS**

- Annulment/Invalidity (INV3)\*  
with dependent children? Y / N; wife pregnant? Y / N
- Child Custody (CUS 3)\*
- Nonparental Custody (CUS 3)\*
- Dissolution With Children (DIC 3)\*
- Dissolution With No Children (DIN 3)\*  
wife pregnant? Y / N
- Enforcement>Show Cause- Out of County (MSC 3)
- Establish Residential Sched/Parenting Plan(PPS 3)\* **££**
- Establish Supprt Only (PPS 3)\* **££**
- Legal Separation (SEP 3)\*  
with dependent children? Y / N; wife pregnant? Y / N
- Mandatory Wage Assignment (MWA 3)
- Modification (MOD 3)\*
- Modification - Support Only (MDS 3)\*
- Out-of-state Custody Order Registration (FJU 3)
- Out-of-State Support Court Order Registration (FJU 3)
- Reciprocal, Respondent Out of County (ROC 3)
- Reciprocal, Respondent in County (RIC 3)
- Relocation Objection/Modification (MOD 3)\*

**££** Paternity Affidavit or Existing/Paternity is not an issue and NO other case exists in King County\* The filing party will be given an appropriate case schedule.      \*\* Case schedule will be issued after hearing and findings.

**ADOPTION/PATERNITY**

- Adoption (ADP 5)
- Challenge to Acknowledgment of Paternity (PAT 5)\*
- Challenge to Denial of Paternity (PAT 5)\*
- Confidential Intermediary (MSC 5)
- Establish Parenting Plan-Existing King County Paternity (MSC 5)\*
- Initial Pre-Placement Report (PPR 5)
- Modification (MOD 5)\*
- Modification-Support Only (MDS 5)\*
- Paternity, Establish/Disestablish (PAT 5)\*
- Paternity/UIFSA (PUR 5)\*
- Out-of-State Custody Order Registration (FJU 5)
- Out-of-State Support Order Registration (FJUS)
- Relinquishment (REL 5)
- Relocation Objection/Modification (MOD 5)\*
- Rescission of Acknowledgment of Paternity (PAT 5)\*
- Rescission of Denial of Paternity (PAT 5)\*
- Termination of Parent-Child Relationship (TER 5)

**DOMESTIC VIOLENCE/ANTIHARASSMENT**

- Civil Harassment (HAR 2)
- Confidential Name Change (CHN 5)
- Domestic Violence (DVP 2)
- Domestic Violence with Children (DVC 2)
- Foreign Protection Order (FPO 2)
- Vulnerable Adult Protection (VAP 2)

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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

ASSIGNED TO THE HONORABLE PARIS K. KALLAS

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants

NO. 06-2-18131-0 KNT

CONFIRMATION OF SERVICE  
SCOMIS CODE:CS/CSSRV

[ ] All the named defendants or respondents have been served or have  
waived service. (Check if appropriate; otherwise, check the box below.)

[X] One or more named defendants or respondents have not yet been  
served. (If this box is checked, the following information must also be provided.)

The following defendants or respondents have been served or have waived  
service:

CONFIRMATION OF SERVICE - 1 of 3  
(06-2-18131-0KNT)  
[166565 v2.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 • FACSIMILE (206) 676-7575

The following defendants or respondents have not yet been served: The Corporation of the President of the Church of Jesus Christ of Latter-Day Saints; LDS Social Services a/k/a LDS Family Services; The "Mormon Church" The Church of Jesus Christ of Latter-Day Saints.

Reasons why service has not been obtained: the attorney for defendant Corporation of the President of the Church of Jesus Christ of Latter-Day Saints and defendant LDS Social Services a/k/a LDS Family Services has agreed to accept service on behalf of these two defendants and it is anticipated that Acceptance of Service will be filed within five (5) court days. Plaintiff is attempting service on the president of Defendant "Mormon Church".

How service will be obtained: personal service on the attorney for defendants Corporation of the President of the Church of Jesus Christ of Latter-Day Saints and defendant LDS Social Services a/k/a LDS Family Services; personal service on defendant "Mormon Church".

Date by which service is expected to be obtained: by 8/30/06 (90 days from the day of filing of the complaint with the Clerk of the King County Superior Court.)

No other named defendants or respondents remain to be served.

DATED this 3 day of July, 2006.

**GORDON, THOMAS, HONEYWELL,  
MALANCA, PETERSON & DAHEIM, LLP**

By Steve Reich WSA# 24708

Michael T. Pfau, WSBA No. 24649

mpfau@gth-law.com

---

Michelle A. Menely, WSBA No. 28353

**CONFIRMATION OF SERVICE - 2 of 3  
(06-2-18131-0KNT)  
[166565 v2.doc]**

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
500 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 675-7500 • FACSIMILE (206) 676-7575

1 [mmenely@gth-law.com](mailto:mmenely@gth-law.com)  
2 Co-Counsel for Plaintiff  
3

4 **LAW OFFICES OF TIMOTHY D. KOSNOFF**

5 By   
6

7 Timothy D. Kosnoff, WSBA No. 16586  
8 [timkosnoff@comcast.net](mailto:timkosnoff@comcast.net)  
9 Co-Counsel for Plaintiff  
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CONFIRMATION OF SERVICE - 3 of 3  
(06-2-18131-0KNT)  
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KENT, WA

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GORDON, THOMAS, HONEYWELL  
MALANCA, PETERSON & DAHEIM LLP

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

10 D.F.,

11 Plaintiff,

12 v.

13 THE CORPORATION OF THE PRESIDENT  
14 OF THE CHURCH OF JESUS CHRIST OF  
15 LATTER-DAY SAINTS, a Utah corporation  
16 sole; LDS SOCIAL SERVICES a/k/a LDS  
17 FAMILY SERVICES, a Utah corporation; and  
18 the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

19 Defendants

20 NO. 06-2-18131-0 KNT

21 ACCEPTANCE OF SERVICE

22 ASSIGNED TO THE HONORABLE PARIS K.  
23 KALLAS

24 I, Charles C. Gordon and Jeffrey I. Tilden of GORDON MURRAY TILDEN LLP,  
25 attorneys for Defendants CORPORATION OF THE PRESIDENT OF THE CHURCH OF  
26 JESUS CHRIST OF LATTER-DAY SAINTS and LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, hereby accepts service of the Summons and Complaint on behalf of  
said Defendants, as though personal service on said defendants had occurred.

ACCEPTANCE OF SERVICE - 1 of 2  
(06-2-18131-0KNT)  
[166562 v04.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 - FACSIMILE (206) 676-7575

DATED this 12<sup>th</sup> day of July, 2006.

GORDON MURRAY TILDEN LLP

By



Charles C. Gordon, WSBA #1773

Jeffrey I. Tilden, WSBA #12219

Attorney for Defendants Corporation of the  
President of the Church of Jesus Christ of Latter-  
Day Saints; and LDS Social Services a/k/a LDS  
Family Services

STATE OF WASHINGTON )  
                            ) ss.  
County of King         )

I certify that I know or have satisfactory evidence that Charles C. Gordon is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

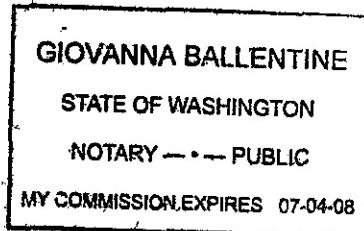
DATED this 12<sup>th</sup> day of July, 2006.



Notary Public in And For the State of Washington,

residing at Covington, WA

Name (printed or typed): Giovanna Ballentine  
My appointment expires: 7/4/08



ACCEPTANCE OF SERVICE - 2 of 2  
(06-2-18131-0KNT)  
[166562 v04.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 - FACSIMILE (206) 676-7575

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SUPERIOR COURT CLERK  
KENT, WA

The Honorable Paris K. Kallas

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

NO. 06-2-18131-0 KNT

CERTIFICATE OF SERVICE

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS, an unincorporated association,

Defendants.

The undersigned hereby certifies that on August 9, 2006, copies of the following  
document:

Demand for Jury; and this

Certificate of Service

CERTIFICATE OF SERVICE - 1

1 were served at the following addresses via the methods indicated:  
2  
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4

5 Michael T. Pfau  
6 Michelle A. Menely  
7 Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP  
8 600 University, Suite 2100  
9 Seattle, WA 98101-4185  
10 Co-Counsel for Plaintiff Rob Rinde  
11 (X) Mail ( ) Hand Delivery ( ) Via e-mail  
12 ( ) Fax ( ) Federal Express  
13

14 Timothy D. Kosnoff  
15 Law Offices of Timothy D. Kosnoff  
16 One Union Square  
17 600 University Street, Suite 2101  
18 Seattle, WA 98101  
19 Co-Counsel for Plaintiff Rob Rinde  
20 (X) Mail ( ) Hand Delivery ( ) Via e-mail  
21 ( ) Fax ( ) Federal Express  
22  
23

24 DATED this 9th day of August, 2006.  
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27 Theresa Barron  
28 Theresa Barron  
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CERTIFICATE OF SERVICE - 2

FILED

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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WAKING COUNTY SUPERIOR COURT  
BARBARA MINER  
DIRECTOR & SUPERIOR CT CLERK  
SEATTLE WA

06-2-18131-0

Ropt. Date 08/09/2006	Acct. Date 08/10/2006	Time 03:57 PM
Receipt/Item # 2006-09-06743/01	Trans-Code 1140	Docket-Code \$JDR12
Cashier: RPC		

The Honorable Paris K. Kallas,  
FBI BY: GORDON MURRAY, ATTYS

Transaction Amount:

\$250.00

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS, an unincorporated association,

Defendants.

NO. 06-2-18131-0 KNT

DEMAND FOR JURY

12 JURORS

(Clerk's Action Required)

TO: CLERK OF COURT; and

AND TO: ALL COUNSEL OF RECORD

Pursuant to KCLR 38(b)(2), a jury demand is being requested no later than the deadline for filing jury demand designated in the Order Setting Civil Case Schedule, said date being August 13, 2007. Charles C. Gordon and Jeffrey I. Tilden, as attorneys of record for defendants The Corporation of the President of the Church of Jesus Christ of Latter-Day Saints and LDS

JURY DEMAND - 1

GORDON MURRAY TILDEN LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154-1007  
Phone (206) 467-6477  
Fax (206) 467-6292

1 Social Services a/k/a LDS Family Services hereby request a jury of 12 persons for the trial in the  
2 above-entitled matter, said trial date currently being November 19, 2007.  
3  
4

5 The proper fee for this demand, the sum of \$250, is herewith attached.  
6

7 DATED this 4<sup>th</sup> day of August, 2006.  
8  
9

10  
11 **GORDON MURRAY TILDEN LLP**  
12

13 By   
14

15 Charles C. Gordon, WSBA #1773  
16 Jeffrey I. Tilden, WSBA #12219  
17 Attorneys for Defendants The Corporation of the  
18 President of the Church of Jesus Christ of Latter-Day  
19 Saints and LDS Social Services a/k/a LDS Family  
20 Services  
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23 [Jury Demand]  
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JURY DEMAND - 2

FILED

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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

IN THE  
SUPERIOR COURT, IN AND FOR THE COUNTY OF KING, STATE OF WASHINGTON

D.F.

Plaintiff/Petitioner

vs.  
THE CORPORATION OF THE PRESIDENT OF  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, A UTAH CORPORATION;  
ET AL.,

Hearing Date:

CAUSE NO. 06-2-18131-0 KNT

DECLARATION OF SERVICE OF:  
SUMMONS & COMPLAINT; ORDER SETTING CIVIL CASE  
SCHEDULE

Defendant/Respondent

The undersigned hereby declares: That s/he is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the **8th** day of August, 2006, at 3:55 PM, at the address of **60 E South Temple Street Suite 1800, SALT LAKE CITY, Salt Lake County, UT 84111**; this declarant served the above described documents upon **THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION**, by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with **Kari Lyn Lorimer, secretary to Von Keetch, registered agent**.

No Information was provided or discovered that indicates that the subjects served are members of the U.S. military.

Declarant hereby states under penalty of perjury under the laws of the State of Washington that the statement above is true and correct.

DATED this 10th day of August, 2006.

*Cliff Stowers*  
Clifford Stowers

ABC's Client Name  
**Gordon, Thomas (Seattle)**  
**26313-00001**

ORIGINAL PROOF OF  
SERVICE

ABC Tracking #: **8022216**





SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants

NO. 06-2-18131-07W

SUMMONS

PARK, KALLAS

A lawsuit has been started against you in the above-entitled court by the above-named Plaintiff. Plaintiff's claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the Plaintiff

SUMMONS - 1 of 3  
[164607 v2.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 - FACSIMILE (206) 676-7575

FILED  
KING COUNTY, WASHINGTON  
NOV 17 2006  
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF KING

F

Plaintiff/Petitioner,  
vs.  
CORP OF THE PRESIDENT OF THE CHURCH OF  
Defendant/Respondent.

NO. 06-2-18131-0 KNT

ORDER ON TRANSFER OF  
INDIVIDUAL JUDGE ASSIGNMENT  
(ORCJ)

Effective January 8, 2007 , this case is transferred from Judge Paris Kallas,  
Dept. 35, to Judge Laura C. Inveen , Dept. 48 for pre-trial management  
Parties should not contact the new judge prior to January 8, 2007  
Dispositive motions with oral argument already scheduled in the month of January shall remain before  
the currently assigned judge.

The trial date and all other dates in the case schedule shall remain the same, unless revised by the  
assigned judge.

If final documents for this case have been entered, please disregard this notice.

It is so ordered this November 17, 2006



Presiding Judge

KOSNOFF, TIMOTHY DAVID  
600 UNIVERSITY ST STE 2100  
SEATTLE, WA 98101-4161

MENELEY, MICHELLE  
600 UNIVERSITY ST STE 2100  
SEATTLE, WA 98101-4185

PFAU, MICHAEL THOMAS  
600 UNIVERSITY ST STE 2100  
SEATTLE, WA 98101-4185

FILED  
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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

**SUPERIOR COURT, IN AND FOR THE COUNTY OF KING, STATE OF  
WASHINGTON**

D.F.  
1

**Plaintiff/Petitioner**

Cause #: 062181310  
KNT

VS.

THE CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY  
SAINTS. A UTAH CORPORATION SOLE: ET AL..

**Defendant/Respondent**

**Declaration of Service of**

**SUMMONS AND COMPLAINT; ORDER SETTING ORIGINAL CIVIL CASE SCHEDULE**

**Hearing Date:**

**Declaration:**

The undersigned hereby declares: That s/he is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of Nov 13 2006 7:57PM at the address of 2217 123RD AVE SE BELLEVUE, within the County of KING, State of WASHINGTON, the declarant duly served the above described documents upon THE "MORMON CHURCH" THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, AN UNINCORPORATED ASSOCIATION by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with GORDON CONGER, MISSION TEMPLE PRESIDENT.

No information was provided that indicates that the subjects served as members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: November 15, 2006 at Seattle, WA

by

E. Traina 9604327

Service Fee Total: \$ 77.35

ABC Legal Services, Inc.  
206 521-9000  
Page 41  
Tracking #: 8023997



**ORIGINAL  
PROOF OF SERVICE**

Gordon, Thomas (Seattle)  
600 University St, #2101  
Seattle, WA 98101  
206 676-7500



SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants

NO. 06-2-18131-ORW

SUMMONS

PARIS K. KALLAS

To: Defendants

A lawsuit has been started against you in the above-entitled court by the above-named Plaintiff. Plaintiff's claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the Plaintiff

SUMMONS - 1 of 3  
[164607 v2.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 • FACSIMILE (206) 676-7575

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SUPERIOR COURT  
KENT, WA  
CLERK

The Honorable Paris K. Kallas

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS, an unincorporated association,

Defendants.

NO. 06-2-18131-0 KNT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 30, 2006, copies of the following  
document:

Answer of Corporation of the President of the Church of Jesus Christ of Latter-Day  
Saints and LDS Family Services and this Certificate of Service

were served at the following addresses via the methods indicated:

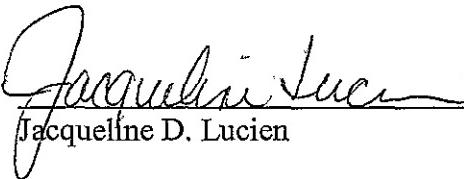
CERTIFICATE OF SERVICE - 1

ORIGINAL

1 Michael T. Pfau  
2 Michelle A. Menely  
3 Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP  
4 600 University, Suite 2100  
5 Seattle, WA 98101-4185  
6 Co-Counsel for Plaintiff Rob Rinde  
7  Mail  Hand Delivery  Via e-mail  
8  Fax  Federal Express  
9

10 Timothy D. Kosnoff  
11 Law Offices of Timothy D. Kosnoff  
12 One Union Square  
13 600 University Street, Suite 2101  
14 Seattle, WA 98101  
15 Co-Counsel for Plaintiff Rob Rinde  
16  Mail  Hand Delivery  Via e-mail  
17  Fax  Federal Express  
18  
19

20 DATED this 30<sup>th</sup> day of November, 2006.

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23 Jacqueline D. Lucien  
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CERTIFICATE OF SERVICE - 2

GORDON MURRAY TILDEN LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154-1007  
Phone (206) 467-6477  
Fax (206) 467-6292

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SUPERIOR COURT OF KING COUNTY  
KENT, WA CLERK

The Honorable Paris K. Kallas

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS, an unincorporated association,

Defendants.

NO. 06-2-18131-0 KNT

ANSWER OF CORPORATION OF  
THE PRESIDENT OF THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS AND LDS FAMILY  
SERVICES

Defendants Corporation of the President of the Church of Jesus Christ of Latter-Day  
Saints ("COP") and LDS Family Services (collectively, "Answering Defendants") respond to  
plaintiff's complaint as follows:

I. PARTIES AND GENERAL ALLEGATIONS

1.1 Answering paragraph 1.1., Answering Defendants admit that plaintiff D.F. at one  
time resided in Kent, Washington and was a member of the Church of Jesus Christ of Latter-Day  
Saints ("the Church") in the Kent 2<sup>nd</sup> Ward. Except as expressly admitted herein, Answering

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
LDS FAMILY SERVICES - 1

GORDON MURRAY TILDEN LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154-1007  
Phone (206) 467-6477  
Fax (206) 467-6292

1 Defendants are without present knowledge or information sufficient to form a believe as to the  
 2 truth or falsity of the remaining allegations contained herein, and therefore deny the same.  
 3  
 4

5       1.2     Answering paragraph 1.2, Answering Defendants admit that the Corporation of  
 6 the President of the Church of Jesus Christ of Latter-Day Saints is a Utah corporation sole, a  
 7 corporation duly organized and operating pursuant to the laws of Utah. COP denies the  
 8 remaining allegations in this paragraph.  
 9  
 10

11      1.3     Answering paragraph 1.3, Answering Defendants admit that the Church is an  
 12 unincorporated spiritual and ecclesiastical entity that has churches within the State of  
 13 Washington. Except as expressly admitted, the allegations in this paragraph are denied.  
 14  
 15

16      1.4     Answering paragraph 1.4, Answering Defendants admit that LDS Social Services,  
 17 now known as LDS Family Services, is a Church-affiliated social service organization.  
 18 Answering Defendants further admit that LDS Family Services has state licensed social service  
 19 personnel on its staff and that some members of the staff of LDS Family Services believe the  
 20 teaching of the Church. Answering Defendants admit that LDS Family Services is a Utah  
 21 corporation which has its principal place is Salt Lake City, Utah, and that said corporation has  
 22 offices in various geographic areas. Except as expressly admitted herein, the allegations  
 23 contained in this paragraph are denied.  
 24  
 25

26      1.5     Answering paragraph 1.5, Answering Defendants admit that certain individuals  
 27 employed by LDS Family Services may fall within the written definition of mandatory reporters  
 28 as set forth in RCW 26.44.030. Except as expressly admitted herein, any other allegations  
 29 contained in this paragraph are denied.  
 30  
 31

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
 LDS FAMILY SERVICES - 2

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## II. JURISDICTION AND VENUE

2.1 Answering paragraph 2.1, Answering Defendants admit that the Court has jurisdiction over the subject matter subject to the constraints of the First Amendment of the United States Constitution and Article I Section II of the Constitution of the State of Washington. Defendants also admit venue is proper and that this Court has personal jurisdiction over Answering Defendants. Answering Defendants deny that this Court has jurisdiction over defendant Church as it has not been properly served and has no capacity to be sued. To the extent not admitted, any other allegations in this paragraph are denied.

### III. FACTS RELATING TO THE STRUCTURE OF THE MORMON CHURCH

3.1 Answering paragraph 3.1, Answering Defendants admit that one of the ecclesiastical offices of the Church is that of President and Prophet, and that said person possesses and exercises the authority commensurate with that office as defined by the doctrines and beliefs of the Church. Defendants admit that the current President of the Church is Gordon B. Hinckley. Answering Defendants admit that COP is registered to do business and does business in the State of Washington. Except as expressly admitted herein, any other allegations contained in this paragraph are denied.

3.2 Answering paragraph 3.2, Answering Defendants admit that the Church functions geographically based upon the designation of “wards” and “stakes,” which are geographically delineated. Answering Defendants admit that there is also a geographic designation of “area” which is used for certain ecclesiastical administration purposes. Answering Defendants admit that the Church uses the designations of bishops, stake presidents, and area presidents; and admit that “wards,” “stakes,” and “areas,” as those terms are used within the Church are not corporate

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
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LDS FAMILY SERVICES - 3

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1 entities. Except as expressly admitted herein, any other allegations contained in this paragraph  
 2 are denied.  
 3

4       3.3 Answering paragraph 3.3, Answering Defendants admit that the religious doctrine  
 5 of tithing is part of the belief and doctrine of the Church and that all members of the Church are  
 6 invited to practice this doctrine. Except as expressly admitted herein, any other allegations  
 7 contained in this paragraph are denied.  
 8

9       3.4 Answering paragraph 3.4, Answering Defendants are without present knowledge  
 10 or information sufficient to form a belief as to the truth or falsity of the allegations contained in  
 11 this paragraph, and therefore deny the same.  
 12

13       3.5 Answering paragraph 3.5, Answering Defendants admit that persons who were  
 14 baptized and confirmed into the Church are members of the Church. Answering Defendants  
 15 further admit that various Church ecclesiastical authorities, in the practice of their religious  
 16 beliefs and responsibilities, attempt to guide and encourage Church members in their service in  
 17 the Church. Except as expressly admitted herein, any other allegations contained in this  
 18 paragraph are denied.  
 19

20       3.6 Answering paragraph 3.6, Answering Defendants admit that male members of the  
 21 Church may be eligible for ordination to the lay priesthood of the Church beginning at age 12;  
 22 admit that there are different offices in the priesthood with different responsibilities, and that  
 23 eligible members of the Church must meet standards of worthiness, as that term is doctrinally  
 24 defined by the Church, before being ordained into an office of the priesthood. Answering  
 25 Defendants further admit that the offices of elder and high priest (in the Melchizedek Priesthood)  
 26  
 27  
 28  
 29  
 30

1 are offices in the lay priesthood of the Church. Except as expressly admitted herein, any other  
 2 allegations contained in this paragraph are denied.  
 3  
 4

5       3.7     Answering paragraph 3.7, Answering Defendants deny the allegations in this  
 6 paragraph.  
 7  
 8

9       3.8     Answering paragraph 3.8, Answering Defendants admit that the Church is and has  
 10 been for an extended period of time one of the many sponsoring organizations for the Boy Scouts  
 11 of America. Except as expressly admitted herein, any other allegations contained in this  
 12 paragraph are denied.  
 13  
 14

#### 17                  IV.     SUBSTANTIVE FACTS

19       4.1     Answering paragraph 4.1, Answering Defendants admit that Herman M.  
 20 Allenbach, as a male member of the Church, participated in the lay priesthood of the Church, as  
 21 that term is defined and understood within the Church, and that Mr. Allenbach was a high priest.  
 22 Answering Defendants further admit that Dr. Allenbach was an oral surgeon who maintained a  
 23 practice in Kent, Washington. Answering Defendants deny that Dr. Allenbach was a bishopric  
 24 counselor and/or scout leader in the Kent Second Ward during the relevant period of time, and  
 25 further deny that Dr. Allenbach was the agent of COP or the Church. As to the remaining  
 26 allegations in this paragraph, Answering Defendants are without present knowledge or  
 27 information sufficient to form a belief as to the truth or falsity of these allegations, and  
 28 therefore deny the same.  
 29  
 30

39       4.2     Answering paragraph 4.2, Answering Defendants admit that Herman M.  
 40 Allenbach died on or about March 6, 2000.  
 41  
 42  
 43  
 44  
 45

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
 LDS FAMILY SERVICES - 5

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1           4.3     Answering paragraph 4.3, Answering Defendants admit that Randy Borland,  
 2  
 3 Philip Coleman and Richard Pettit have served as bishops in the Kent Second Ward. Except as  
 4  
 5 expressly admitted herein, any other allegations contained in this paragraph are denied.  
 6

7           4.4     Answering paragraph 4.4, Answering Defendants admit that Jack Allen Loholt,  
 8  
 9 a/k/a Jack Allen Onefrey, hereinafter "Loholt") has been convicted of a crime in the State of  
 10 Washington; has been a member of the Church; and that he was an elder, as that term is defined  
 11 and understood within the Church. Except as expressly admitted herein, any other allegations  
 12  
 13 contained in this paragraph are denied.  
 14

15           4.5     Answering paragraph 4.5, Answering Defendants admit that in approximately  
 16  
 17 1969 Loholt began renting a room from Dr. Allenbach in the Allenbach family home. Except as  
 18  
 19 expressly admitted herein, the allegations contained in this paragraph are denied.  
 20

21           4.6     Answering paragraph 4.6, Answering Defendants admit that at various times  
 22  
 23 Loholt was involved in the scouting program in the Kent Second Ward. Except as expressly  
 24  
 25 admitted, Answering Defendants are without present knowledge or information sufficient to  
 26  
 27 form a belief as to the truth or falsity of the remaining allegations contained in this paragraph,  
 28  
 29 and therefore deny the same. The allegation that Loholt and Allenbach were "Mormon priests"  
 30  
 31 is expressly denied.  
 32

33           4.7     Answering paragraph 4.7, Answering Defendants admit the allegations in the first  
 34  
 35 two sentences of this paragraph. As to the third sentence, Answering Defendants lack  
 36  
 37 information sufficient to form a belief as to the truth or falsity of the allegations and therefore  
 38  
 39 deny the same.  
 40

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 ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
 LDS FAMILY SERVICES - 6

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1           4.8     Answering paragraph 4.8, Answering Defendants deny the allegations in this  
2 paragraph.  
3  
4

5           4.9     Answering paragraph 4.9, Answering Defendants deny the allegations in this  
6 paragraph.  
7  
8

9           4.10    Answering paragraph 4.10, Answering Defendants deny the allegations in this  
10 paragraph.  
11  
12

13          4.11    Answering paragraph 4.11, Answering Defendants are without information  
14 sufficient to form a belief as to the truth or falsity of the allegations relating to LDS Family  
15 Services and therefore deny the same. Answering Defendants deny the remaining allegations in  
16 this paragraph.  
17  
18

19          4.12    Answering paragraph 4.12, Answering Defendants lack information sufficient to  
20 form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore  
21 deny the same.  
22  
23

24          4.13    Answering paragraph 4.13, Answering Defendants lack information sufficient to  
25 form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore  
26 deny the same.  
27  
28

29          4.14    Answering paragraph 4.14, Answering Defendants deny the allegations in this  
30 paragraph.  
31  
32

33          4.15    Answering paragraph 4.15, Answering Defendants lack information sufficient to  
34 form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore  
35 deny the same.  
36  
37

4.16 Answering paragraph 4.16, Answering Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore deny the same.

4.17 Answering paragraph 4.17, Answering Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore deny the same.

4.18 Answering paragraph 4.18, Answering Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore deny the same.

4.19 Answering paragraph 4.19, Answering Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph and therefore deny the same.

## V. FIRST CAUSE OF ACTION

5.1 Answering paragraph 5.1, Answering Defendants reallege and incorporate their prior responses as set forth above.

5.2-5.6 Answering paragraphs 5.2, 5.3, 5.4, 5.5 and 5.6, Answering Defendants deny these allegations.

5.7 Answering paragraph 5.7, Answering Defendants admit that the Church has promulgated general guidelines to assist members in helping victims of sexual abuse and sex offenders. Except as admitted herein, any other allegations contained in this paragraph are denied.

5.8-5.12 Answering paragraphs 5.8, 5.9, 5.10, 5.11, and 5.12, Answering Defendants deny these allegations.

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
LDS FAMILY SERVICES - 8

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## **VI. SECOND CAUSE OF ACTION**

6.1 Answering paragraph 6.1, Answering Defendants reallege and incorporate their responses set forth above.

6.2-6.6 Answering paragraph 6.2, 6.3, 6.4, 6.5, and 6.6, Answering Defendants deny these allegations.

## VII. THIRD CAUSE OF ACTION

7.1 Answering paragraph 7.1, Answering Defendants reallege and incorporate herein their responses set forth above.

7.2 Answering paragraph 7.2, Answering Defendants deny these allegations.

## **VIII. FOURTH CAUSE OF ACTION**

8.1 Answering paragraph 8.1, Answering Defendants re-allege and incorporate herein their responses set forth above.

8.2 Answering paragraph 8.2, Answering Defendants deny these allegations.

## IX. DAMAGES

Answering paragraph 9.1 and 9.2, Answering Defendants deny these allegations.

## AFFIRMATIVE DEFENSES

For further answer, and by way of affirmative defenses, Defendants allege as follows:

1. **Failure to State a Claim.** Plaintiffs' Amended Complaint fails, in whole or in part, to state a claim upon which relief can be granted.
  2. **No Fiduciary Duty.** Defendants owe no fiduciary duty to Plaintiffs.
  3. **Failure to Mitigate Damages.** Plaintiffs have failed to mitigate or minimize their damages, if any.

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
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1       4.     **No Proximate Cause.** Plaintiffs' damages, if any, were proximately caused by  
 2 the acts or omissions of others over whom these Defendants had no control or right of control.  
 3

4       5.     **Contribution.** If liability is established, these Defendants are entitled to  
 5 contribution from any party or non-party whose negligence may have contributed as a proximate  
 6 cause to the injury complained of in Plaintiffs' Amended Complaint.  
 7

8       6.     **Contributory Fault / Apportionment.** Pursuant to RCW 4.22.070(1), damages  
 9 are to be apportioned according to the relative fault of all at-fault entities. In accordance with  
 10 CR 12(i), and to preserve all potential defenses, Defendants identify Dr. Herman Allenbach,  
 11 Arlene Land and Ron Nash as unnamed at-fault parties pursuant to RCW 4.22.070(1).  
 12 Defendants reserve the right to identify other unnamed or as yet unidentified at-fault entities, if  
 13 any, once such identity has become known to Defendants.  
 14

15       7.     **No Punitive Damages.** Washington law does not permit a claim for exemplary  
 16 (punitive) damages.  
 17

18       8.     **Statute of Limitations.** Plaintiffs' claims are barred by the statute of limitations.  
 19

20       9.     **No Liability for Damages Resulting from Intentional Misconduct.** Defendants  
 21 are not liable under the laws of the State of Washington for of Plaintiffs' damages caused by the  
 22 intentional acts of Jack Loholt aka Jack Onefrey (or by the intentional acts of such other  
 23 tortfeasors, if any), and all of Plaintiffs' damages resulting from such intentional acts and  
 24 omissions must be segregated from damages that are negligent/fault-based, on the basis of the  
 25 varying degrees of culpability and causation among the actors.  
 26

27       10.    **Intervening or Superseding Cause.** Defendants are not liable under the laws  
 28 of the State of Washington based on an intervening or superseding cause.  
 29

30       ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
 31 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
 32 LDS FAMILY SERVICES - 10

33       **GORDON MURRAY TILDEN LLP**  
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## MATTERS OF AVOIDANCE

1.     **Freedom of Religion.** To the extent that Plaintiffs' claims are based upon these Defendants' exercise of their religious beliefs, they are barred by the Defendants' rights under the First Amendment to the United States Constitution, and by Article I, Section II, of the Constitution of the State of Washington.

## **RESERVATION**

Defendants hereby reserve the right to assert such further and other affirmative defenses, avoidances, and to otherwise allege, admit, or deny as may be warranted by discovery.

**WHEREFORE**, Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by way of their Amended Complaint against these Defendants and that the Complaint be dismissed with prejudice;

2. That Defendants, each of them, be granted their attorneys' fees and costs against Plaintiffs:

3. That, pursuant to RCW 4.22.070, if liability were to be established against these Defendants (either or both of them), that each of Defendants (either or both of them) be severally liable only for its share of fault-based damages;

4. That, pursuant to established law, Plaintiffs' damages caused by intentional conduct be segregated from those damages, if any, caused by negligent/"at-fault" conduct; and

5. That Defendants be given such other and further relief as the Court deems just and equitable.

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
LDS FAMILY SERVICES - 11

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1 DATED this 3<sup>rd</sup> day of November, 2006.  
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GORDON MURRAY TILDEN LLP

By Michael Rosenberger  
Charles C. Gordon, WSBA #1773

Jeffrey I. Tilden, WSBA #12219

Michael Rosenberger, WSBA #17730

Attorneys for Defendants

The Corporation of the President of the Church  
of Jesus Christ of Latter-Day Saints

ANSWER OF CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND  
LDS FAMILY SERVICES - 12

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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ORIGINAL

F

Plaintiff(s),

vs.

CORP OF THE PRESIDENT OF THE CHURCH OF  
Defendant(s)

NO. 06-2-18131-0 KNT

COURT'S ORDER TO SHOW CAUSE

(Clerk's Action Required)

SCOMIS CODE: ORTSC

Hearing Date: APR 10 2007

This Court, having reviewed the legal file herein, and, determining that certain required filings do not appear of record, or that parties have indicated a problem on the Confirmation of Joinder, enters the following order:

- I.  The following parties are to appear in Room 1F at the Regional Justice Center, 401 Fourth Avenue North, Kent, WA on \_\_\_\_\_ at 1:30 PM to review these issues from the Confirmation of Joinder:
- Plaintiff / Petitioner  
 Defendant / Respondent  
 Third Party  
 Other \_\_\_\_\_

- II.  The following counsel and/or pro se parties, shall appear in Room 1F at the Regional Justice Center, 401 Fourth Avenue North, Kent, WA at 1:30 PM on the \_\_\_\_\_ day of APR 10 2007, shall then and there to show cause as to why monetary sanctions in a sum of at least \$250 or other sanctions should not be ordered.

Plaintiff to appear for failure to prosecute this cause of action by filing a Confirmation of Joinder, a Statement of Arbitrability, or submitting an Order of Dismissal to the Court for entry  
Or

- The following parties are to appear as after a review of the legal file upon filing of the Confirmation of Joinder shows that mandatory answers have not been filed and the case is not ready. The following action(s) should have been taken:

Plaintiff / Petitioner  
 Defendant / Respondent  
 Third Party  
 Other \_\_\_\_\_

to have moved for default on the

- Claim
  - Counterclaim
  - Cross-claim
  - Other
- 

If Paragraph I is checked, the hearing will be stricken upon filing of an amended Confirmation of Joinder or a Statement of Arbitrability when the case is ready, but no later than **seven days** before the scheduled hearing. Failure to file complying document by this deadline will result in **monetary sanctions in a sum of at least \$250 or other sanctions**.

If Paragraph II is checked, the hearing on Order to Show Cause will be stricken upon compliance with the deficiencies listed. If the case is resolved and completed, a copy of the disposition order should be sent to the Chief Civil judge. The Show Cause hearing will be stricken.

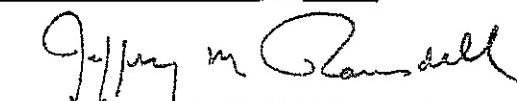
If you believe you have received this Order in error because the responsive pleading has already been filed and served pursuant to the Case Scheduling Order, or if you are going to file and serve the necessary responsive pleading after receipt of this Order, you must forward a copy of the pleading requested so that the Court receives it not later than **seven days prior** to the date of the hearing.

**IF EITHER OF THE ABOVE SITUATIONS APPLY TO YOU, YOU MUST PROVIDE A WORKING COPY TO THE CHIEF CIVIL JUDGE VERY CLEARLY NOTING IN THE UPPER RIGHT HAND CORNER.**

"SHOW CAUSE HEARING SET FOR APR 10 2007

If there is no response from you **seven days prior** to the scheduled hearing, the hearing will be held as scheduled and sanctions may be imposed.

IT IS SO ORDERED THIS \_\_\_\_\_ day of DEC 12 2006, 20\_\_\_\_.



Judge Jeffrey M. Ramsdell

KING COUNTY SUPERIOR COURT

(NAMES AND ADDRESSES OF ALL PARTIES)

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KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS,  
an unincorporated association,

Defendants.

NO. 06-2-18131-0 KNT

CONFIRMATION OF JOINDER OF  
PARTIES, CLAIMS AND DEFENSES

ASSIGNED TO THE HONORABLE  
PARIS K. KALLAS

(CJ) (Clerk's Action Required)

1. This case is **NOT** subject to mandatory arbitration.  
[If it is, this report should not be filed; instead, no later than the deadline for filing this report, a statement of arbitrability should be filed.]
  2. No additional parties will be joined.
  3. All parties have been served or have accepted service.
  4. All mandatory pleadings have been filed.
  5. No additional claims or defenses will be raised.
  6. The parties anticipate no problems in meeting the deadlines for disclosing possible witnesses and other, subsequent deadlines in the Case Schedule.
  7. All parties have cooperated in completing this report.
- II.  The parties do not join in making the foregoing representations, as explained below (if appropriate, check both the box at left and every applicable box below.)

CONFIRMATION OF JOINDER OF PARTIES, CLAIMS ETC., - 1 of 3  
[172469 v07.doc]

LAW OFFICES  
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ONE UNION SQUARE  
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SEATTLE, WASHINGTON 98101-4185  
(206) 676-7560 • FACSIMILE (206) 676-7575

ORIGINAL

- 1           ( ) This case IS subject to mandatory arbitration, but not ready yet for  
2           the Statement of Arbitrability to be filed.  
3           ( ) Plaintiff's will be adding other defendant(s).  
4           ( ) A party remains to be served.  
5           (X) A mandatory pleading remains to be filed.  
6           ( ) An additional claim or defense will be raised.  
7           ( ) An additional claim or defense will be raised.  
8           ( ) One or more parties anticipate a problem in meeting the deadlines for  
9           disclosing possible witnesses or other, subsequent deadlines in the  
10          Case Schedule.  
11          ( ) A party has refused to cooperate in drafting this report.  
12          (X) Other explanation:

13           Defendant Corporation of the President of The Church of Jesus  
14           Christ of Latter-day Saints ("COP") is the corporation established by  
15           The Church of Jesus Christ of Latter-day Saints to interface with  
16           secular society. COP has reserved Feburary 9, 2007 for hearing a  
17           Motion to Dismiss the unincorporated church as COP believes the  
18           church has no capacity to sue or be sued, and thus is not a proper  
19           party. If the motion is denied, attorneys for defendant COP will  
20           appear and answer on behalf of the unincorporated church. The  
21           parties represent and agree that not having the Answer on behalf of  
22           the "Mormon Church" at this time will not affect the parties ability to  
23           meet case Scheduling Deadlines.

15           Dated this \_\_\_\_ day of December 2006.

16           GORDON, THOMAS, HONEYWELL, MALANCA,  
17           PETERSON & DAHEIM LLP

18           By Michelle Menely  
19           Attorneys for Plaintiffs  
20           Michael T. Pfau, WSBA No. 24649  
21           [mpfau@gth-law.com](mailto:mpfau@gth-law.com)  
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25           Co-Counsel for Plaintiff

26           LAW OFFICES OF TIMOTHY D. KOSNOFF

27           By Timothy D. Kosnoff  
28           Timothy D. Kosnoff, WSBA No. 16586  
29           [timkosnoff@comcast.net](mailto:timkosnoff@comcast.net)  
30           Co-Counsel for Plaintiff

CONFIRMATION OF JOINDER OF PARTIES, CLAIMS ETC., - 2 of 3  
[172469 v07.doc]

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Day Saints; and LDS Social Services a/k/a LDS  
Family Services

CONFIRMATION OF JOINDER OF PARTIES, CLAIMS ETC., - 3 of 3  
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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

The Honorable Laura Inveen

Hearing Date: February 9, 2006 9:00 a.m.

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

D.F.,

Plaintiff,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole; LDS SOCIAL SERVICES a/k/a LDS  
FAMILY SERVICES, a Utah corporation; and  
the "MORMON CHURCH" THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS, an unincorporated association,

Defendants.

NO. 06-2-18131-0 KNT

DEFENDANT CORPORATION OF  
THE PRESIDENT OF THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
SAINTS' MOTION TO DISMISS  
AND/OR FOR SUMMARY  
JUDGMENT

I. INTRODUCTION

Plaintiff alleges that approximately 31 years ago he was sexually abused by an Assistant Scout Master of the Boy Scouts who was a member of The Church of Jesus Christ of Latter-day Saints ("the Church" or "the LDS Church"). Although the abuser was not a member of the clergy, plaintiff alleges that defendants had a duty to prevent such abuse. By this motion, defendant Corporation of the President of The Church of Jesus Christ of Latter-day Saints ("COP") moves to dismiss the Church as a party. COP stands in the shoes of the Church and

DEFENDANT CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS'  
MOTION TO DISMISS - 1

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1 brings this motion on the Church's behalf because, as discussed below, the Church has no  
 2 capacity to sue, be sued, or participate in litigation.  
 3

4  
 5 Defendant COP is a corporation organized nearly 75 years ago as a legal vehicle for the  
 6 Church's interface and relationship with secular society. COP possesses assets, enters contracts  
 7 to carry out the business of the Church, hires and pays employees, and has the capacity to file  
 8 suit and be sued. COP is registered to conduct business in the State of Washington and has  
 9 identified an agent for service of process. In contrast, the Church exists solely as a spiritual and  
 10 ecclesiastical entity which possesses no assets or property, does no business in any state, and has  
 11 no employees. According to Church doctrine, the Church functions as the Kingdom of God on  
 12 earth. The Church is not incorporated or registered to do business, and has no agent for service  
 13 of process.  
 14

15 COP moves to dismiss the Church from this suit for two reasons. First, the Church lacks  
 16 capacity to be sued. Once a religious organization has seen fit to incorporate, it is solely this  
 17 legal entity that can be sued. The corresponding ecclesiastical, unincorporated church lacks any  
 18 legal existence. Enforcing this principle would cause no prejudice to plaintiff's liability or  
 19 damages case. COP concedes it is liable for any negligence of the Church and COP's assets are  
 20 available to satisfy any judgment. Thus, for example, counsel for plaintiff and defendants tried a  
 21 similar sexual abuse case in federal court just a few months ago, and the sole defendant in that  
 22 case was COP. COP proposed a jury instruction, which Judge Ricardo S. Martinez gave, that  
 23 advised the jury that COP "stands in the shoes of the Church."  
 24

25 That is as equally true here as it was there. Because the COP stands in the shoes of the  
 26 Church, the Church has no assets, and any judgment would be paid by COP, the Church is  
 27  
 28

29 DEFENDANT CORPORATION OF THE PRESIDENT OF THE  
 30 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS'  
 31 MOTION TO DISMISS - 2

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 36 Fax (206) 467-6292

1 completely superfluous. Plaintiff has sued the Church for one reason: to defeat diversity  
 2 jurisdiction. If the Church were deemed an “unincorporated association” with capacity to be  
 3 sued, the traditional rule is that such an association is a resident of any state in which it has a  
 4 member, thus making diversity jurisdiction impossible. COP’s motion, if granted, merely  
 5 prevents plaintiff’s counsel from forum shopping between federal and state court—adding or  
 6 omitting the Church as a defendant at times of plaintiff’s counsel’s whim. Plaintiff’s counsel has  
 7 represented several other plaintiffs in sexual abuse cases against COP, and in most of them the  
 8 Church is not a named defendant.<sup>1</sup>

17 Second, the Church should be dismissed because plaintiff has failed to serve the Church  
 18 and, indeed, cannot practically do so under any circumstances. Plaintiff attempted service on the  
 19 Church by serving a former clergy member, Gordon Conger, presumably on the belief that Mr.  
 20 Conger is the Church’s agent. However, service upon the Church (even if it were a proper party)  
 21 cannot be accomplished by serving an “agent” of the Church. Washington law provides an agent  
 22 of an unincorporated association can be served when that association is “doing business” in  
 23 Washington. Given that the Church has no employees and conducts no business in the State of  
 24 Washington, the Church is not “doing business” and thus cannot be served through an agent.  
 25 Thus, even if the Church were a proper party, which COP disputes, the Church could be served  
 26 only by serving each of its members in the State. COP readily concedes that this is nearly  
 27 impossible as a practical matter and such impossibility serves only to highlight the impropriety  
 28 of joining the Church in this action.

---

41 <sup>1</sup> For example, and as discussed in more detail below, plaintiff’s counsel did not name the Church as a defendant in  
 42 the case recently tried against COP in the Western District of Washington, *R.K. v. Corporation of the President of*  
 43 *The Church of Jesus Christ of Latter-day Saints*. Plaintiffs’ counsel also represent a plaintiff in a federal action that  
 44 does not name the Church as a defendant, *Ames v. Corporation of the President of the Church of Jesus Christ of*  
 45 *Latter-day Saints*.

## II. FACTS

## **A. Similar Cases Show The Church is Not an Appropriate or Necessary Party.**

Plaintiff's counsel, Messrs. Pfau and Kosnoff, represent current and former litigants in sex abuse cases against COP. Some of these cases are being litigated in federal court against only COP. Given that the Church is not needed to litigate these cases or to collect on any judgment, one must conclude the Church's presence as a party derives solely from plaintiff's counsel's opinion as to the forum most favorable for a given case.

In this case and another pending before this Court, plaintiff's counsel named the Church as a defendant. Plaintiff's counsel have sought to justify naming the Church as a defendant on the ground that COP purportedly could argue the Church is a non-party at fault under R.C.W. 4.22.070, thereby reducing plaintiff's damages. However, the Church cannot be an "empty chair" to whom fault could be attributed, and COP would be willing to so stipulate.

The cases filed by plaintiff's counsel against COP include:

1. *R.K. v. The Corporation of the President of The Church of Jesus Christ of Latter-day Saints* (W.D. Wash. C04-2338RSM): That case, now on appeal, did not name the Church as a defendant. Four plaintiffs commenced the action, which was originally captioned *K.F. v. The Corporation of the President of the Church of Jesus Christ of Latter Day Saints*. The lead plaintiff in that case, K.F., is the brother of D.F., plaintiff herein. Three plaintiffs, including K.F., settled with COP and R.K.’s claim went to trial. COP itself proposed a jury instruction —which the Court gave—that succinctly stated the relationship between COP and the Church:

Defendant in this case is the corporation established by the Church of Jesus Christ of Latter-Day Saints to carry out the

1                   secular affairs of the Church. Legally, it stands in the shoes  
 2                   of the Church.

3  
 4                   Declaration of Michael Rosenberger, Exs. 1-2 (emphasis added).<sup>2</sup>  
 5  
 6                   2. *David V. Ames v. The Corporation of the President of the Church of Jesus Christ of*  
 7                   *Latter-day Saints* (D.N.J., 2:06-cv-03441 –WJM-RJH). That sexual abuse case does not  
 8  
 9                   name the Church and was recently commenced in federal court in New Jersey.<sup>3</sup>  
 10  
 11                  3. *Doe v. The Corporation of the President of The Church of Jesus Christ of Latter-day*  
 12                  *Saints* (King Co. Sup. Ct. 02-2-04105-1 KNT): That case, also on appeal, did not name  
 13                  the Church as a defendant. Ex. 5. COP did not remove the case to federal court because  
 14                  complete diversity was lacking; the plaintiffs and COP's co-defendant were Washington  
 15                  residents.  
 16  
 17                  4. *Rinde v. The Corporation of the President of The Church of Jesus Christ of Latter-day*  
 18                  *Saints, et. al.* (King Co. Sup. Ct. 06-2-09825-1 SEA). In *Rinde*, plaintiff's counsel  
 19                  initially named only COP.<sup>4</sup> COP removed to federal court, at which point plaintiff  
 20                  moved to amend the Complaint to add the Church as a defendant and to remand to this  
 21                  Court. Judge Zilly permitted plaintiff to add the Church based on the plaintiff's  
 22                  misrepresentation that COP might assert "that it is not the entity responsible for the acts  
 23                  of the Bishops, Stake Presidents and other officials involved in this case." Ex. 7 at 3.  
 24  
 25                  Plaintiff thus suggested he "could be left with an 'empty chair' defendant." *Id.* These

39                  <sup>2</sup> All exhibits subsequently cited are attached to the Rosenberger declaration filed herewith.  
 40

41                  <sup>3</sup> Plaintiff's counsel do not appear on the Complaint in that action, Ex. 3, but the preceding demand letter identifies  
 42                  them as counsel for plaintiff Mr. Ames. Ex. 4.

43                  <sup>4</sup> The federal court to which the case was removed noted that Plaintiff "failed to plead the existence of two  
 44                  defendants in his Complaint." Ex. 6 at 1.  
 45

1 statements were blatantly false because, as reflected by the instruction COP proposed in  
 2 *R.K. v. COP*, COP concedes it is the entity responsible if Church clergy were negligent  
 3 while acting within the scope of their authority as clergy. Unfortunately, COP could not  
 4 rebut the misrepresentation because it appeared in plaintiff's reply brief and the court did  
 5 not hold a hearing. The court relied on plaintiff's misstatements and thus allowed Mr.  
 6 Rinde to add the Church as a defendant, stating that "the absence of the Mormon church  
 7 as a named defendant could preclude Mr. Rinde from recovering damages for any fault  
 8 attributable to the Mormon church." Ex. 6 at 2. The court then remanded the case to  
 9 Superior Court as it viewed the Church as an association that is a resident of every state  
 10 in which a member resides, including Washington, thus defeating diversity jurisdiction.

11       *Rinde* is pending before Judge Downing, and COP has filed a nearly  
 12 identical motion to dismiss the Church from that case. That motion will be argued on the  
 13 same day as the present motion, February 9, 2007. If it would be of convenience to the  
 14 Court, COP would be willing to argue the two motions simultaneously before both Judge  
 15 Inveen and Judge Downing.

16       Hence, three of plaintiff's counsel's four other cases against COP did not name the  
 17 Church as a defendant, and two of them are being litigated in federal court. Surely, plaintiff's  
 18 counsel cannot contend that Plaintiff would be prejudiced if the Church were dismissed.

19       **B. Most Religious Organizations, Including the LDS and Catholic Churches, Operate  
 20 Through a Form of Corporate Organization.**

21       Before addressing the specifics of the corporate existence of the LDS Church, it is  
 22 appropriate to describe why religious organizations adopt a corporate form and the unique  
 23 corporate form that is often used.

1           Most religious organizations do not carry out church business through unincorporated  
 2 associations. This is not surprising, given the disadvantages of associations: “lack of limits on  
 3 personal liability for the members and directors; difficulties in the ownership, receipt and  
 4 succession of property, particularly real property; [and] complications in entering into legal  
 5 transactions such as contracts and the initiation of lawsuits. . . .” Gerstenblith, *Associational*  
 6  
 7 *Structures of Religious Organizations*, 1995 B.Y.U. L. Rev. 439, 444 (1995).  
 8

9  
 10          For these reasons, most organizations which are of any size or  
 11 complexity, which own property, or which desire to gain other  
 12 advantages from a more formal corporate status choose to  
 13 incorporate under one of the applicable state incorporation statutes.  
 14

15          *Id.*

16  
 17          Utah permits a religious organization to incorporate as a “corporation sole,” thus  
 18 permitting the incorporation of one or more high offices within the particular church. Utah Code  
 19 Ann. § 16-7-1 et seq. Washington also permits this form of organization and, for example, the  
 20 Catholic Bishop of Spokane and the Corporation of the Catholic Archbishop of Seattle are  
 21 organized as corporations sole.<sup>5</sup>

22  
 23          [A] corporation sole is the incorporation of the bishop or other  
 24 presiding officer of the church for the purposes of administering  
 25 and managing the affairs, property and temporalities of the church.  
 26 The principal purpose of a corporation sole is to insure the  
 27 continuation of ownership of a religious organization's property. At  
 28 the death of the individual holding the office, church property  
 29 passes to the successor to the office for the benefit of the religious  
 30 group, rather than passing to the officeholder's heirs.

31  
 32          Gerstenblith, *supra*, at 455. Utah's corporation sole statute grants corporate status and  
 33 protection to the incorporating religious organization, and provides that the entity shall have

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34  
 35          <sup>5</sup> According to the web site of the Washington Secretary of State, <http://www.secstate.wa.gov/corps/>, the Catholic  
 36 Bishop of Spokane is an active corporation sole organized in 1915 and The Corporation of the Catholic Archbishop  
 37 of Seattle is an active corporation sole organized in 1861.

power: (1) to "acquire," "possess" and "dispose" of real property; (2) "to borrow money"; (3) "to contract and be contracted with"; (4) "to sue and be sued"; (5) "to plead and be impleaded in all courts of justice"; and (6) to have a common seal. Utah Code Ann. § 16-7-6.

**C. Defendant COP Exists to Conduct Temporal Affairs on Behalf of the Church.**

For nearly 75 years, COP has been incorporated as a corporation sole under Utah law. Affidavit of Paul D. Rytting, ¶ 3. It has its headquarters in Salt Lake City, Utah. *Id.* It has employees, owns significant assets and carries out church business. *Id.* COP, for example, funds all Church-sponsored activities and outings.

**D. The Church Is Concerned Solely with Spiritual Matters, Holds No Property, and Conducts No Business.**

As distinguished from COP, the Church exists solely as an ecclesiastical/spiritual organization, with more than 27,000 congregations and more than 12.6 million members worldwide. Rytting Affidavit ¶ 5. Under Church doctrine, the Church functions as the Kingdom of God on earth. From time to time, the president or other "general authorities" of the Church provide spiritual and doctrinal guidance to local Church leaders and the general membership. *Id.* ¶ 7. Local leaders of the Church also perform religious functions similar to those performed in other religious organizations, including blessings, baptisms, confirmation, ordinations, and the calling of members to serve in volunteer ecclesiastical positions. *Id.* The Church itself has no corporate identity and no articles of association, bylaws, or rules governing legal existence. Instead, the Church is organized and governed by scripture, by modern revelation from God, and by the ecclesiastical doctrines and beliefs of the Church. *Id.* ¶ 6.

As a purely ecclesiastical and spiritual entity, the Church itself holds no assets or property. *Id.* ¶ 4. It does not do business in any state, nor is it registered to do so. *Id.* The

1 Church has no employees and it has no money from which to pay salaries, employment taxes, or  
 2 benefits. *Id.* Thus, if a judgment were rendered against the Church, it would be futile because the  
 3 Church has absolutely no assets or property from which such a judgment could be satisfied. *Id.*  
 4

5 **E. Plaintiff Has Purported to Serve the Church by Serving a Former Clergy Member.**

6 Even if the Church had the capacity to be sued, plaintiff has not accomplished effective  
 7 service of process.

8 Plaintiff attempted to serve the Church by serving Gordon Conger. Mr. Conger is a  
 9 former clergy member of the Church. Although it is questionable whether Mr. Conger is an  
 10 “agent” of the Church, this motion does not contest his status. Rather, COP contends that no  
 11 service can be made on *any* agent because the Church is not “doing business” in Washington.  
 12

13 **III. EVIDENCE RELIED UPON**

- 14     1. Declaration of Michael Rosenberger.  
 15     3. Declaration of Paul D. Rytting.

16 **IV. ARGUMENT**

17 The factual setting from which this motion arises is novel. In most such cases, a personal  
 18 injury plaintiff attempts to join the asset-rich corporate entity affiliated with a religious  
 19 organization, and in some cases the corporate entity disputes responsibility for the torts of the  
 20 actor in question. Here, COP does not dispute that it will be liable for, and pay, any judgment  
 21 resulting from the negligence of Church agents acting within the scope of their authority.

22 Paradoxically, Plaintiff here seeks to maintain an action against an unincorporated  
 23 religious organization with no assets and for no reason bearing upon liability or damages.  
 24 Plaintiff's counsel seek to maintain the fiction of the Church as a necessary party so as to  
 25

1 preserve their discretion to defeat diversity jurisdiction when they perceive it in their interest to  
 2 do so.  
 3

4 **A. The Church Has No Legal Status and is not a Proper Party.**

5 As a purely spiritual association with no worldly affairs, the Church cannot be sued and  
 6 thus is not a proper party. Once a religious entity chooses to incorporate utilizing a valid and  
 7 recognized form of legal incorporation, one can bring suit *only* against the corporate form:  
 8

9 [W]henever a religious society incorporates, it assumes a dual  
 10 existence; two distinct entities come into being -- *one, the church,*  
 11 *which is conceived and endures wholly free from the civil law*, and  
 12 the other, the corporation created through the state prescribed  
 13 method. Each remains separate although closely allied. *The*  
 14 *components of the ecclesiastical interrelationship between the*  
 15 *parent church and the subordinate body cannot be permitted*  
 16 *to serve as a bridge capable of reaching the non-secular parent*  
 17 *in a civil proceeding.*

18 *Folwell v. Bernard*, 477 So. 2d 1060, 1063 (Fla. App. 1985) (emphasis added) (citation omitted).

19 Other courts concur with *Folwell* and expressly acknowledge and respect the existence of two  
 20 separate yet related entities: the spiritual or ecclesiastical entity that cannot be sued and over  
 21 which courts have no jurisdiction, and the temporal or corporate entity which is subject to  
 22 judicial control in accordance with statutory and constitutional restrictions.<sup>6</sup>

23 Where, as here, a religious denomination's corporate entity holds the denomination's  
 24 assets and is fully capable of serving as the defendant in a lawsuit – in other words, where the  
 25

26 <sup>6</sup> See, e.g., *Trinity Presbyterian Church of Montgomery v. Tankersley*, 374 So.2d 861, 866 (Ala. 1979) ("[W]henever  
 27 there is an incorporated church, there exist two entities... Questions involving the spiritual church are ecclesiastical  
 28 in nature, and civil courts cannot decide any questions concerning this entity."); *Sorenson v. Logan*, 32 Ill.App.2d  
 29 294, 295-96, 177 N.E.2d 713 (1961) (same); *Koch v. Estes*, 146 Misc. 249, 252, 262 N.Y.S. 23 (1933) ("A religious  
 30 corporation has a double aspect, the one spiritual, the other temporal. With regard to the former, courts have no  
 31 concern"); *Willis v. Davis*, 323 S.W.2d 847 (Ky. Ct. App. 1959) ("such a corporation is civil in nature and is an entity  
 32 distinguishable from an ecclesiastical society or association, the one having jurisdiction over the temporal or  
 33 secular and the other over ecclesiastical or spiritual affairs").

1 religious entity is focused entirely on religious matters – courts should and must honor the  
 2 corporate structure and deny attempts to drag the unincorporated religious entity into personal  
 3 injury lawsuits.  
 4

7 **B. The Church Is not an “Unincorporated Association.”**

8       The Church has often been characterized or characterized itself as an unincorporated  
 9 association. While this is somewhat descriptive insofar as it distinguishes it from an  
 10 incorporated entity, it is not accurate in the legal sense.  
 11

12       The term “unincorporated association”—commonly associated with entities such as labor  
 13 unions and homeowners’ associations—refers to an association that operates absent any  
 14 corporate form. *EEOC v. St. Francis Xavier Parochial School*, 77 F. Supp. 2d 71 (D.D.C. 1999).  
 15 In that case, plaintiff brought a claim arising under the Americans with Disabilities Act against a  
 16 Catholic church and school that were part of a parish within the incorporated Archdiocese of  
 17 Washington. Plaintiff alleged that the school and church were unincorporated associations that  
 18 were properly joined as parties under Federal Rule 17(b). The court disagreed with plaintiff’s  
 19 starting premise that the church and school were “unincorporated associations.”  
 20

21       While all of these definitions describe an unincorporated association as a  
 22 collection of persons working together for a common objective, they also describe  
 23 it as *an entity operating without a corporate charter*. The Court finds this latter  
 24 characteristic determinative of whether an unincorporated division of a  
 25 corporation meets the definition of an unincorporated association. Unlike the  
 26 unincorporated associations defined above, a division of a corporation does  
 27 operate with a charter -- the charter of the larger corporation.  
 28

29       *EEOC v. St. Francis Xavier*, 77 F. Supp. at 77 (emphasis added). While the Church is not a  
 30 division of COP, the principle is equally applicable—the Church has established a corporation  
 31 for carrying out its worldly affairs.  
 32

1           The district court in *EEOC v. St. Francis Xavier* also reasoned that the unincorporated  
 2 entities's lack of assets buttressed the conclusion they were not proper parties.  
 3  
 4

5           This construction of "unincorporated association" is also consistent with the  
 6 rationale for denying unincorporated divisions of a corporation the capacity to be  
 7 sued in the first place. As discussed, this rationale arises out of an unincorporated  
 8 division's lack of independent assets: because any judgment against it must be  
 9 satisfied out of the corporation's assets, the corporation must be named, and  
 10 adjudged liable, as a party.

11  
 12 *Id.* at n. 9. Similarly, here, Plaintiff knew he needed to join COP, as it is the Church entity with  
 13 assets. Given COP's presence in this case, there is no reason to grant the unincorporated Church  
 14 the capacity to be sued.

15  
 16           COP concedes that this state permits unincorporated associations to be sued, as do many  
 17 other states. This is a function of necessity. For example, a person with a grievance against a  
 18 labor union would have no recourse if it (the labor union) were not subject to suit as an  
 19 unincorporated association. However, such is not the case here—Plaintiff rights, if any, can be  
 20 fully vindicated without the presence of the Church in this litigation. The Church is not an  
 21  
 22 "unincorporated association" as that term is used to describe unions and other such organizations  
 23 that lack any corporate form.

24  
 25  
 26  
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 28  
 29  
 30  
 31       **C.     The Church Must Be Dismissed Because it Has Not and Cannot Be Served--the  
 32           Church is not "Doing Business" in Washington and thus the Summons and  
 33           Complaint Cannot be Served upon a Church agent.**

34  
 35  
 36           As noted above, Plaintiff purported to serve the Church by serving a former clergy  
 37 member, Mr. Conger. For purposes of this motion, the Church does not dispute that Mr. Conger  
 38 is the Church's "agent." COP contends, rather, that if the Church were a proper party, the  
 39 purported service on an agent is improper. The only way to serve the Church would be to serve  
 40 all its members. The Church should thus be dismissed—it has not been served and, as a practical  
 41  
 42  
 43  
 44  
 45

1 matter, the Church's continued presence on the caption would be a fiction because its 245,000  
 2 members in Washington cannot practicably be served.  
 3  
 4

5 The Washington statute governing service of process contains only one subsection that  
 6 mentions associations. The statute provides that the summons shall be served by delivering a  
 7 copy as follows:  
 8  
 9

10 (10) If the suit be against a foreign corporation or non-  
 11 resident joint stock company, partnership or *association doing*  
 12 *business* within the State, to any agent, cashier or secretary thereof.  
 13  
 14 ...  
 15

16 (15) In all other cases, to the defendant personally, or by  
 17 leaving a copy of the summons at his house or his or her usual  
 18 abode with some person of suitable age and discretion then  
 19 resident therein.  
 20

21 R.C.W. 4.28.080 (10) (15) (emphasis added). Thus, even if this Court were to hold that the  
 22 Church is an unincorporated association, it is not "doing business" in the State and thus service  
 23 cannot be made upon the Church by serving a Church agent. Rather, like a social club that does  
 24 not "do business" in the State, the Church would need to be served by serving all its members.  
 25  
 26

27 As used in R.C.W. 4.28.080, the phrase "doing business" is not defined and COP is  
 28 unaware of any cases applying this phrase in the context of service upon an "association."  
 29 However, it has been interpreted and applied in the context of disputes concerning personal  
 30 jurisdiction over foreign corporations. "Although [RCW 4.28.080(10)] appears only to address  
 31 service of process, the Washington Supreme Court has held that it confers general jurisdiction  
 32 over a nonresident defendant 'doing business' in this state, that is, transacting *substantial and*  
 33 *continuous business* of such character as to give rise to a legal obligation." *Mbm Fisheries v.*  
 34 *Bollinger Mach. Shop & Shipyard*, 60 Wn. App. 414, 418, 804 P.2d 627 (1991). As discussed  
 35  
 36

1 above, the Church has no employees, enters no contracts and generally conducts *no business* in  
 2 the State of Washington. Surely, it is not engaging in “substantial and continuous” business that  
 3 would trigger the application of the statute permitting service upon an agent.  
 4

7 Moreover, other states have refused to apply similar statutes to associations other than  
 8 businesses. For example, the Ninth Circuit, applying Nevada law, observed that a Nevada statute  
 9 providing for service upon two or more persons “associated in any business” does not apply to  
 10 unincorporated trade associations. *Strotek Corp. v. Air Transport Association of America*, 300  
 11 F.3d 1129, 1134 n.2 (9<sup>th</sup> Cir. 2002). As the court stated, “neither does it seem logical that it  
 12 would be [applied to trade associations], for a trade association conducts no ‘business’ and its  
 13 members have no joint liability.” *Id.*  
 14

21 Similarly, in *Cox v. Thee Evergreen Church*, 836 S.W.2d 167 (Tex. 1992), the Texas  
 22 Supreme Court held that a statute applicable to associations “doing business” in Texas did not  
 23 apply to unincorporated charitable organizations. The Texas statute contains language similar to  
 24 that contained in Washington’s service of process statute:  
 25

29 Any incorporated joint stock company or association, whether  
 30 foreign or domestic, doing business in the State, may sue or be  
 31 sued in any court of this state having jurisdiction of the subject  
 32 matter in its company or distinguishing name; . . .  
 33

34 Tex. Rev. Civ. Stat. Ann. Article 6133.  
 35

36 In sum, even if this Court disagrees with COP’s position that the Church is not a proper  
 37 party, the Court should conclude the Church is not “doing business” in this state and therefore  
 38 service of process cannot be made on a Church agent as provided in R.C.W. 4.28.080 (10). As a  
 39 practical matter, such a ruling would require dismissal of the Church as Plaintiff would never be  
 40 able to serve process on the 245,000 members of the Church in Washington.  
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DEFENDANT CORPORATION OF THE PRESIDENT OF THE  
 CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS’  
 MOTION TO DISMISS - 14

GORDON MURRAY TILDEN LLP  
 1001 Fourth Avenue, Suite 4000  
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 Phone (206) 467-6477  
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## V. CONCLUSION

For the reasons stated above, COP respectfully requests that this Court dismiss the Church from this action.

DATED this 11th day of January, 2006.

## **GORDON MURRAY TILDEN LLP**

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Attorneys for Defendants  
The Corporation of the President of the Church  
of Jesus Christ of Latter-Day Saints

**DEFENDANT CORPORATION OF THE PRESIDENT OF THE  
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS'  
MOTION TO DISMISS - 15**

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10 The Honorable Laura C. Inveen  
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12 SUPERIOR COURT OF THE STATE OF WASHINGTON  
13 FOR KING COUNTY

14 D.F.,

15 Plaintiff,

16 v.

17 THE CORPORATION OF THE PRESIDENT  
18 OF THE CHURCH OF JESUS CHRIST OF  
19 LATTER-DAY SAINTS, a Utah corporation  
20 sole; LDS SOCIAL SERVICES a/k/a LDS  
21 FAMILY SERVICES, a Utah corporation; and  
22 the "MORMON CHURCH" THE CHURCH  
23 OF JESUS CHRIST OF LATTER-DAY  
24 SAINTS, an unincorporated association,

25 Defendants.

26 NO. 06-2-18131-0 KNT

27 [PROPOSED] ORDER GRANTING  
28 DEFENDANT'S MOTION TO  
29 DISMISS AND/OR FOR SUMMARY  
30 JUDGMENT

31  
32 THIS MATTER was brought before the Court upon the motion of defendant Corporation  
33 of the President of the Church of Jesus Christ of Latter-Day Saints to dismiss and/or for  
34 summary judgment seeking dismissal of defendant The Church of Jesus Christ of Latter-day  
35 Saints. The Court has considered the arguments of counsel and the following submissions:

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42 1. COP's memo in support;  
43  
44 2. Declaration of Michael Rosenberger and attached exhibits;

45 ORDER - 1

**COPY**

3. Declaration of Paul Rytting;
4. Plaintiff's Opposition Brief;
5. COP's Reply Brief;
6. \_\_\_\_\_
- 7.

Based upon the foregoing, it is hereby:

ORDERED, ADJUDGED AND DECREED that the motion is GRANTED; The Church of Jesus Christ of Latter-day Saints is dismissed from this action with prejudice.

DATED this              day of              , 2007.

---

**The Honorable Laura Inveen**

Presented by:

## **GORDON MURRAY TILDEN LLP**

By Michael Rosenberger  
Charles C. Gordon, WSBA #1773  
Jeffrey I. Tilden, WSBA #12219  
Michael Rosenberger, WSBA #17730  
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ORDER - 2

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